



Office of Competition and Consumer Protection

Competition and Consumer Protection Policy

Warsaw 2015

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Glossary

ADR (Alternative Dispute Resolution) – an alternative means of resolving disputes, including consumer disputes, used to resolve trader-consumer matters. The proceedings are conducted by an *independent* entity, for instance a mediator or arbiter, which means that a case may be resolved more quickly and with fewer formalities.

Annual Percentage Rate of Change – the total cost of a credit facility borne by a borrower, given as a percentage of the full amount of the credit facility per annum, inclusive of other costs of the credit facility in addition to the nominal rate of interest (fixed charges, costs of compulsory extra services).

Cartel – a horizontal agreement aimed at restricting competition, for example by reaching a mutual agreement on prices, volume of production, and division of a market or customers. This is one of the most serious forms of violation of Polish and EU competition law due to the specific type of harm it can cause.

Commitment – a system in which it is possible for an undertaking which infringes competition and consumer protection law to avoid sanctions by making a voluntary commitment to take or cease certain actions leading to the infringement being stopped or the effects of the infringement being remedied.

Compliance – an organisation's measures taken to ensure that all of the personnel working in a business undertaking comply with the law in their activities. In this document, the term refers to activities relating to compliance with competition and consumer protection law.

Consumer Protection Cooperation system – a network in which EU Member State authorities responsible for enforcing consumer law work together. It was created in 2006 under regulation 2006/2004, providing for sharing of information needed for proceedings relating to infringements in this regard of a cross-border nature.

Dominant position – cases in which an undertaking has market strength enabling it to operate to a substantial extent independently of competitors, counterparties, and consumers. This does not by itself constitute an infringement of competition law, but abuse of such a position in the form of exploitative activities or excluding competitors might be considered illegal. An undertaking is assumed to hold a

dominant position if it has a share on the relevant market of more than 40 per cent.

E-commerce – transactions which the parties do not effect simultaneously, being the purchase of goods or services which are presented for example on websites with the option of online payment.

Exclusionary practices – practices applied by undertakings which have a dominant position on the market whereby they use market strength to eliminate competitors or stop new entities entering the market, for example by denying access to essential infrastructure or imposing long-term contracts binding customers. Practices of this kind are contrary to competition law if they are - or might only potentially be – indirectly harmful to consumers.

Exploitative practices – practices that are employed by undertakings which have a dominant position and are directly harmful to consumers and their counterparties, consisting among other things in imposition of prices and other contractual terms which give dominant entities unjustified gains.

Frequency spectrum – frequencies being the main resource used on a commercial scale in the telecommunications sector to provide voice and data transmission services.

Horizontal agreement – an agreement between two or more competing undertakings. Examples of anti-competitive agreements are cartels and tender collusion.

Industry regulators – government agencies which specialise in the regulation of certain sectors in which there is a particular risk of market problems, which might be for example existence of entities of significant market strength. They have available to them the tools to directly prevent negative trends occurring on the market in the area for which they are responsible.

IP traffic – transmission of data via the Internet.

Leniency – a programme in which undertakings or managing persons have a fine decreased or are granted full immunity from a fine when they file a motion for leniency and decide to disclose an anti-competitive agreement, and to work with a competition and consumer protection authority, enabling collection of evidence on

the basis of which a decision concerning competition-restricting practices can be issued. The leniency programme was introduced in Poland in 2004.

Leniency plus – a programme in which undertakings or managing persons have a fine decreased further, when they have filed a motion for leniency, are not granted full immunity, but have decided to provide a competition and consumer protection authority with information about a different prohibited agreement about which the authority is not aware at the time.

Market tests – consulting market players on drafts of a ruling before a competition and consumer protection authority issues a decision. This instrument enables the authority to learn the opinions of entities that operate in the circumstances to which the ruling being considered pertains, and to modify the final wording of the ruling as appropriate.

Misselling – a genre name used to describe practices that infringe consumer interests whereby consumers are sold products or services which are ill-suited to their needs.

Network industries – markets that involve construction of and making use of physical network infrastructure such as telecommunications, transportation (rail), and transmission and distribution of electricity, gas, water, and thermal energy. They are usually subject to ordinary sector regulation (*ex-ante*), while this does not rule out the possibility of intervention on the basis of competition and consumer law (*ex-post*).

ODR (Online Dispute Resolution) – a method whereby disputes are resolved online. This is a digital platform set up by the European Commission to which all ADR entities operating in Member States will be connected. The aim of this platform is to facilitate resolution of disputes concerning transactions concluded online, in particular cross-border cases.

Practices infringing collective consumer interests – unlawful actions on the part of undertakings that affect an unlimited number of persons; these are in particular the use of clauses in standard agreements which have been put on the register of abusive (prohibited) clauses, breach of the obligation to provide consumers with accurate, true and full information, use of unfair commercial practices, or acts of unfair competition.

Preliminary rulings – proceedings in which the Court of Justice of the European Union (CJEU) provides interpretations of EU law at the behest of national courts.

Private enforcement of competition law – use by private entities of competition and consumer protection legislation for the purpose of pursuing claims under competition law.

Public enforcement of competition law – measures taken by a competition authority in the interest of the public with regard to protection of competition.

Register of abusive (prohibited) clauses – a list of clauses used by undertakings which are prohibited by the Court of Competition and Consumer Protection (SOKiK) in legally binding rulings. The list is available publicly, maintained by UOKiK, and published on its website. It is updated regularly.

Remedies – various means that can be used to eliminate competition-restricting practices or the effects of such practices, which might take the form for instance of licencing intellectual property rights, granting access to essential infrastructure, or altering an undertaking's organisational structure.

Settlements – a procedure whereby undertakings charged with violation of competition law can submit a settlement declaration and have the requisite fine decreased by 10 per cent.

Tender collusion – an arrangement in which undertakings which enter a tender (horizontal arrangement) agree, or those undertakings and the undertaking organising the tender (vertical arrangement) agree, the terms of the bids submitted, in particular the scope of works or price. This is one of the most harmful forms of anti-competitive agreement, and the persons that enter into them might in addition face criminal liability.

Vertical agreement – an agreement between undertakings in a supplier-recipient relationship. Examples are mutual agreement of fixed prices or of minimum prices for reselling.

Foreword

The President of the Office of Competition and Consumer Protection is responsible for **drafting the government competition development policy and the government consumer policy**¹. In the past, two separate documents have been drawn up – competition policy and consumer policy, in light of this requirement. The most recent ones concerned the years 2011-2013 and 2010-2013 respectively.

This document is the first one to **combine the two policies into one**. This is because there is a common goal in competition protection and consumer protection, which is consumer welfare and creating commercial conditions in which effective competition also brings about fairness in trader-consumer relationships. The combination of these two aspects in a single document **stresses this synergy and leads to greater transparency and cohesion of the state's activities with regard to protection of competition and consumer rights**.

The mission of the Office of Competition and Consumer Protection (UOKiK) is to take measures to ensure the highest possible level of **consumer welfare** by providing effective **protection of competition and of consumer rights and interests**, while abiding by the principles of **procedural fairness** in relationships with undertakings².

The experience that Poland as well as other developed countries has gained shows that **impediment of competition often translates into unfair treatment of consumers**. When reacting to infringements of this kind, UOKiK is able to restore proper conduct on the market in situations in which there are no grounds for the conclusion that prohibited monopolistic practices such as price fixing, market sharing, or abuse of a dominant position are taking place. In this sense consumer right enforcement is an additional tool for ensuring that the market is a level playing field.

The state's competition policy also covers other aspects of **raising the level of**

¹ Act of 16 February 2007 on Competition and Consumer Protection, art. 31 (4) (Journal of Laws no. 50, item 331, as amended).

² Presentation of the Office's mission of June 2014 available at https://uokik.gov.pl/aktualnosci.php?news_id=10994&news_page=23

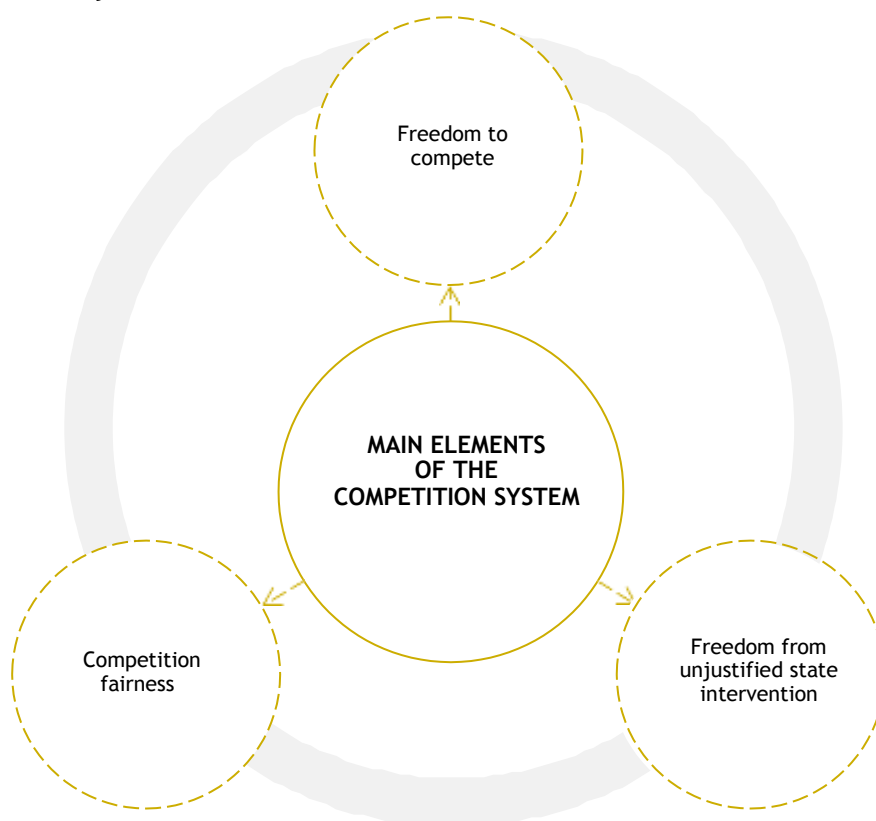
competition of the economy, as raising the level of competition serves to achieve overall economy-related and social goals. In addition to the applicable institutional and legal framework, market competition is a key element of a well-run economy. It acts as a lever for development and faster growth, prompts undertakings to become more efficient, and creates the right conditions for greater innovation. This in turn leads to job creation, forces down prices, leads to increase in quality, and affords consumers a wider choice of products and services. It is for this reason that an effective and consistent means of eliminating any signs that competition on the market is distorted, preventing them coming about, and promoting solutions that are conducive to development of competition, is so vital.

Meanwhile, competition is only a means to an end and is not the ultimately envisaged goal of measures taken by the public authorities. **The final beneficiary of unimpaired competition is always the consumer** – the weakest link in the product and services trade chain. The principal goal of competition protection is therefore to ensure that conditions exist for it to function anywhere where it might render use of resources more effective and increase innovativeness, leading in turn to increased consumer welfare. Where there is no competition, creating a consumer-friendly market is severely hindered and inefficiency is abound. At the same time consumers do not have faith in the framework in which they operate.

It is also important to note that competition and consumer protection is an important tool in the **protection of commercial freedom**, as there are **three main elements to a competition system** in a social market economy:

- **freedom to compete**, which means that businesses are not encumbered by anti-competitive conduct of other undertakings, such as collusion or abuse of a dominant market position;
- **freedom from state intervention**, which means that the state does not interfere with competition where this does not serve the greater public interest;
- **competition fairness**, meaning adhering to good practice with respect to other market players (competitors, customers, consumers).

Diagram 1. Main elements of the competition system which are the foundation for a social market economy



Source: own studies.

The *Competition and Consumer Protection Policy* (the *Policy*) is intended to be implemented in the **medium term**. This however does not mean that it cannot be adjusted if the government finds this to be legitimate.

The application of the ideas presented in this document should bring about a quicker and more effective reaction on the part of the competent authorities to adverse tendencies on the market while ensuring that the **public authorities** retain the **flexibility** required for a rapidly changing economy.

While this *Policy* lists the most important issues upon which competition and consumer protection in the Polish economy relies, **it is not solely a programme of measures carried out by UOKiK**. It also lays down the principal areas of activity of other public authorities and entities in the fields mentioned. In addition, it points out the benefits of exchanging experience and information with other entities, including market players. Moreover, although the *Policy* is focused on

particular aspects of the functioning of the economy, it is an important element of the country's overall economic policy.

This document is made up of three chapters. The first presents ideas for making the competition and consumer protection system more efficient, the second discusses measures that are specific to competition protection, and the third gives a description of the means that ensure protection of consumer rights.

I. Making the competition and consumer protection system more efficient

The competition and consumer protection system is a **complex** one, and within it there are the horizontally functioning **UOKiK** and other entities acting within their areas of competence. **Industry regulators, members of the Council of Ministers, inspection authorities, and NGOs** dealing with consumer protection play an important role in the system. Consumers are provided with assistance in individual matters by **municipal and poviats consumer ombudsmen**, who work at local authority level, and **consumer organisations** that cooperate with UOKiK. The national competition and consumer protection system co-exists with its EU counterpart, in which the leading authority is the EC.

The effectiveness of the competition and consumer protection system is determined by the level of efficiency of the individual elements of which it is made up, and how they work together and support each other. Ultimately, it should form an efficient **network of contacts and ties** that help to achieve the common objectives. This network is a vital element of the process of ensuring that the competition and consumer protection system operates with increased effectiveness nationwide, and this is why creating this network will be a key task undertaken for the period for which the *Policy* is in place.

1. The position and the role of UOKiK in the competition and consumer protection system

The President of the Office of Competition and Consumer Protection is a central authority of the state administration and his duties are laid down in the Act on Competition and Consumer Protection of 16 February 2007³.

UOKiK protects horizontal⁴ competition in four main areas:

- combating anti-competitive agreements between undertakings;
- combating abuse of a dominant position;
- concentration control;

³ Journal of Laws no. 50 item 331, as amended.

⁴ Horizontal protection of competition means that UOKiK's powers in this respect are not limited to specific sectors. In most cases its activities may affect the economy as a whole.

- monitoring state aid.

UOKiK also takes action in cases which have important ramifications for **collective consumer interests**. The **main tasks** performed in this area are:

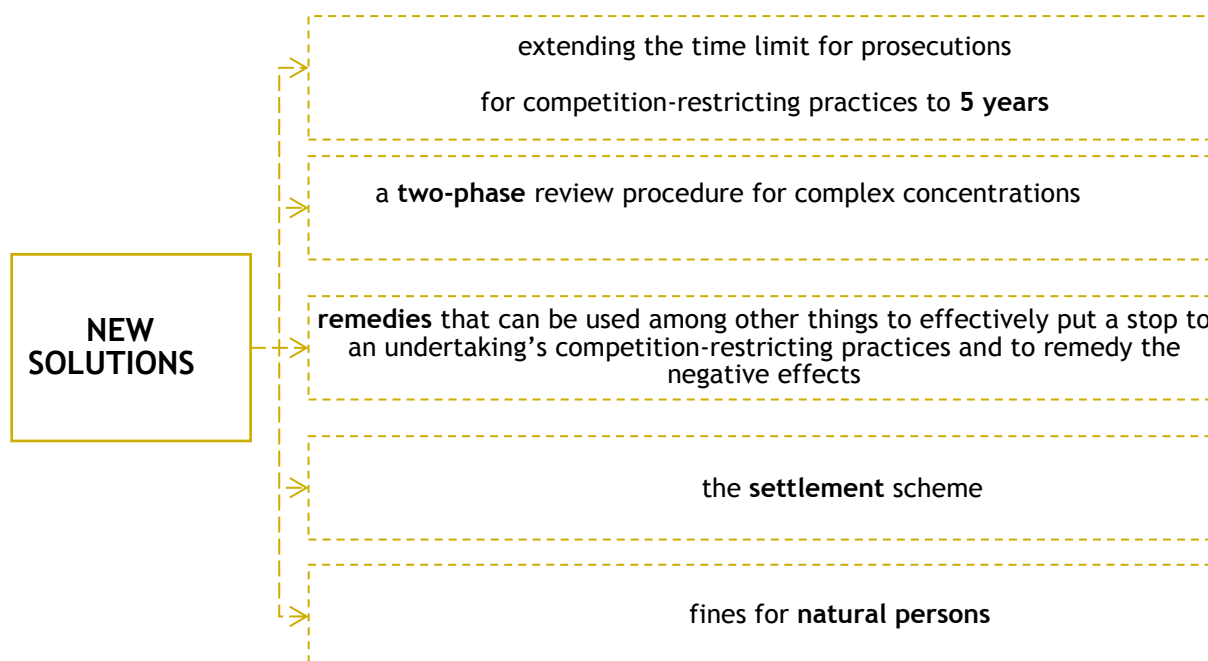
- eliminating practices infringing collective consumer interests;
- monitoring standard agreements;
- ensuring product safety and quality of services.

Two legislative acts passed in 2014 are of key relevance to UOKiK's activities for the period in which the *Policy* is in place:

- the Act of 10 June 2014 amending the Act on Competition and Consumer Protection and the Code of Civil Procedure⁵
and
- the Act of 30 May 2014 on Consumer Rights⁶.

The first one provides for **new solutions** and updates the regulations on leniency, inspections, searches, and fines for undertakings.

Diagram 2. New legal solutions introduced by the amended Act on Competition and Consumer Protection



Source: own studies.

⁵ Journal of Laws item 945. The amendments made in this act came into force on 18 January 2015.

⁶ Journal of Laws item 847. This act came into force on 25 December 2014.

The amendment in question also provides for solutions which provide **additional reinforcement of the position of consumers** and safeguard their collective interests in cases where undertakings employ the most serious and most harmful practices (for example expanding the scope of a commitment decision to include remedying the effects of prohibited practices).

In the Act of 30 May 2014 on Consumer Rights, the list of information which it is obligatory to provide has been extended and standardised for both types of unconventional agreements (off-premises and distance contracts). In addition, with regard to the right to withdraw from a contract – which is fundamental to e-commerce – the period for which this right can be exercised has been extended (from 10 days to 14 days), the moment at which this time limit begins has been defined precisely, the consequences of withdrawal are specified in detail (and this includes the question of who covers which costs) and a comprehensive list is provided of cases in which this right does not apply. The act also gives consumers greater freedom in the choice of rights (withdrawal from the contract, reduction of the price, repair or replacement) available to the consumer if a purchased item is defective. Importantly, the new legislation will contribute significantly to improvement of consumer protection, but also – due to harmonisation of legislation – it will make it easier for undertakings to do business in other EU Member States.

Also, work is underway on a proposal made by UOKiK to amend the Act on Competition and Consumer Protection **with respect to consumer issues**. The aim of the amendment will be to reform non-case specific monitoring of standard agreements and introduce additional instruments to enhance the position of consumers, especially on financial markets. The most important of the **new developments** include **prohibiting proposing to consumers financial products and services that are ill-suited to their needs (misselling)**, and a “mystery shopper” programme in which attempts will be made to make purchases during proceedings concerning practices infringing collective interests of consumers.

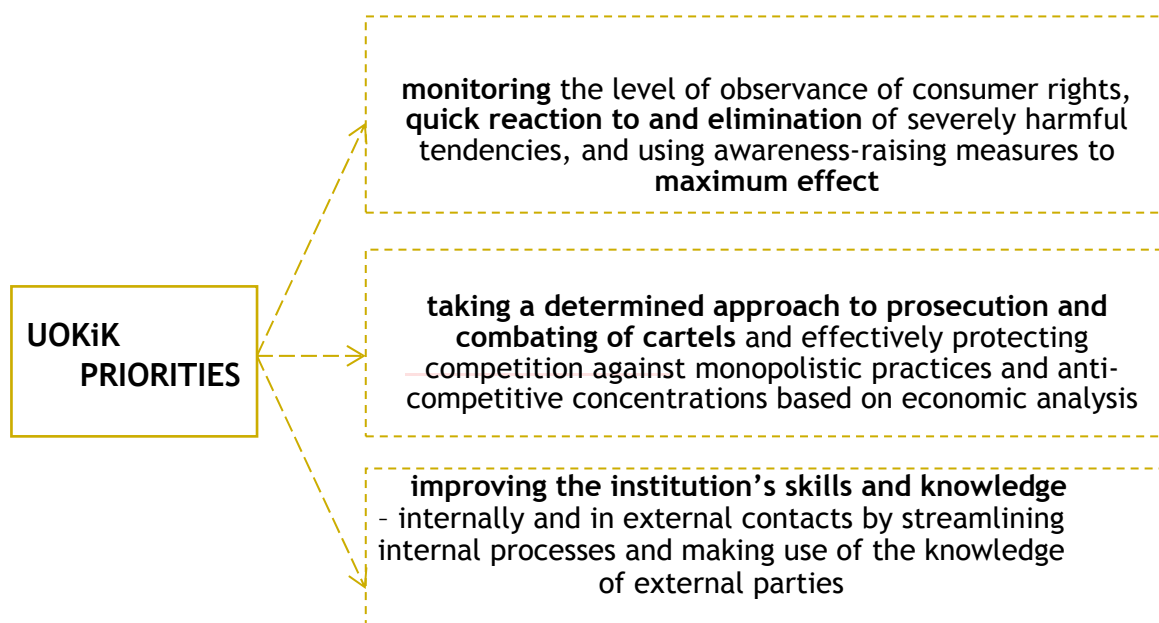
Other amendments to legislative acts, both at the national and the EU level, might also turn out to have important implications for competition and consumer protection. This is why **an active role in the legislative process** is always a vital

aspect of UOKiK activities. To this end, the legislative process with regard to government and non-government proposals for legislation will be monitored. Importantly, if a **merit-based assessment of the consequences** of legislative proposals indicates that competition or consumer rights might be restricted, UOKiK will conduct **dialogue with EU, government, social partners and parliament**, to enable legislation to be devised which protects consumer interests and – where possible – is based on the mechanism of competition between commercial entities.

Work to improve the law will be accompanied by measures to make **UOKiK more effective**. This will mainly entail a greater economic focus, i.e. greater attention to the results of economic analyses when handling cases, including consumer cases. This will mean that when reacting to infringements the overall effect on consumer welfare and the functioning of the entire national economy will be considered. The use of economic tools will enable changes that are occurring on the markets to be diagnosed on an ongoing basis and UOKiK to react quickly and efficiently. **Economic analysis will be fundamental to administrative decisions**. In view of its enlarged role, UOKiK will also be able to take into account – to a larger extent than in the past – the specific nature of a particular market and the true pressure that the entities operating on that market exert on one another.

UOKiK will be taking further measures to streamline its operations and react with greater effectiveness.

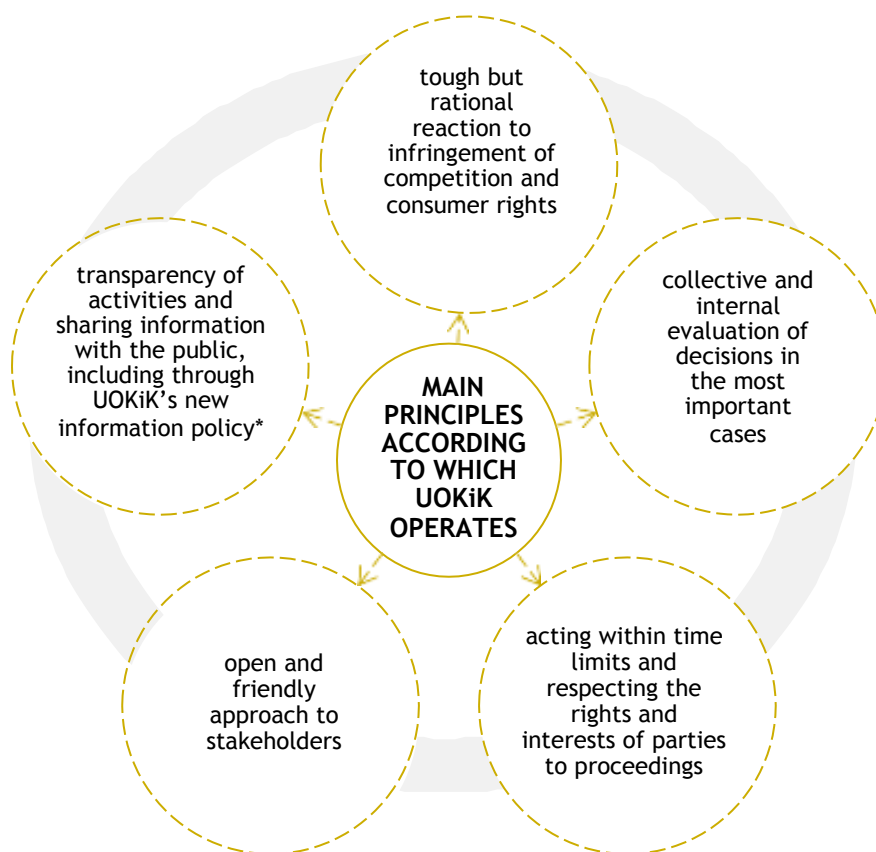
Diagram 3. UOKiK's priorities under the current *Policy*



Source: own studies.

Importantly, particular stress will be placed on **respect for the principle of procedural fairness in proceedings**, and this will involve among other things quickly implementing findings in court judgements, especially Supreme Court judgements, into UOKiK practice. This is intended to increase consumer and business trust in UOKiK and make the authority's decision-making more predictable.

Diagram 4. The main principles according to which UOKiK operates



Source: own studies.

* In April 2015 the Office published the policy on its website [Zasady publikowania informacji o wynikach badań rynku](https://uokik.gov.pl/aktualnosci.php?news_id=11553) at https://uokik.gov.pl/aktualnosci.php?news_id=11553 (available only in Polish)

The results of the efforts made to continually improve the way UOKiK functions should be seen in the form of creation of a climate that is **friendly to competition and consumer protection**. An objective way of measuring success in this sphere will be the *Global Competition Review* (GCR), which ranks the activities of the leading competition and consumer protections authorities around the world. UOKiK's position in this ranking will be announced in the authority's annual report, making it possible to determine on an ongoing basis to what extent the changes made have brought about the intended results.

Table 1. How UOKiK's activities were ranked in *Global Competition Review* in the years 2008-2014

year	2008	2009	2010	2011	2012	2013	2014
ranking	 below expectations 	 above expectations 	 above expectations 	 above expectations 	 stable 	 stable 	 stable 
grade	adequate	adequate	adequate	good	good	good	good

Source: own report based on the *Global Competition Review*.

2. Creating a competition and consumer protection network

Competition- and consumer protection-related tasks are complicated and in practice they cover the entire national economy. Effective pursuit of the *Policy*, which is broad in its impact, **requires efficient functioning of the system of state authorities**, aware of their role and the importance of all the entities that exist within it. Only if the activities of the elements within it are coordinated will the full potential offered by the diversity of the tools and specialist knowledge be realised. Measures need to be taken therefore to create a **competition and consumer protection network** (the *network*), which will bring about stable, competitive markets with consumers at the centre.

By combining the competition protection policy and consumer issues, **synergy** can be attained, and this is why the network's activities should encompass both of these aspects. In their regulatory activities, UOKiK and other authorities within the network need to consider the potential benefits for users of products and services.

Looked at in institutional terms, the *Policy* should be seen more from the point of view of the potential of the entire system than of individual links within it – the authorities and organisations that perform their duties independently. The possibility of attaining results that cannot be attained by each of these authorities acting alone is added value. Meanwhile, the **devising of fundamental principles of**

cooperation and coordination of relevant entities is a supplementary factor determining the operational efficiency of the network.

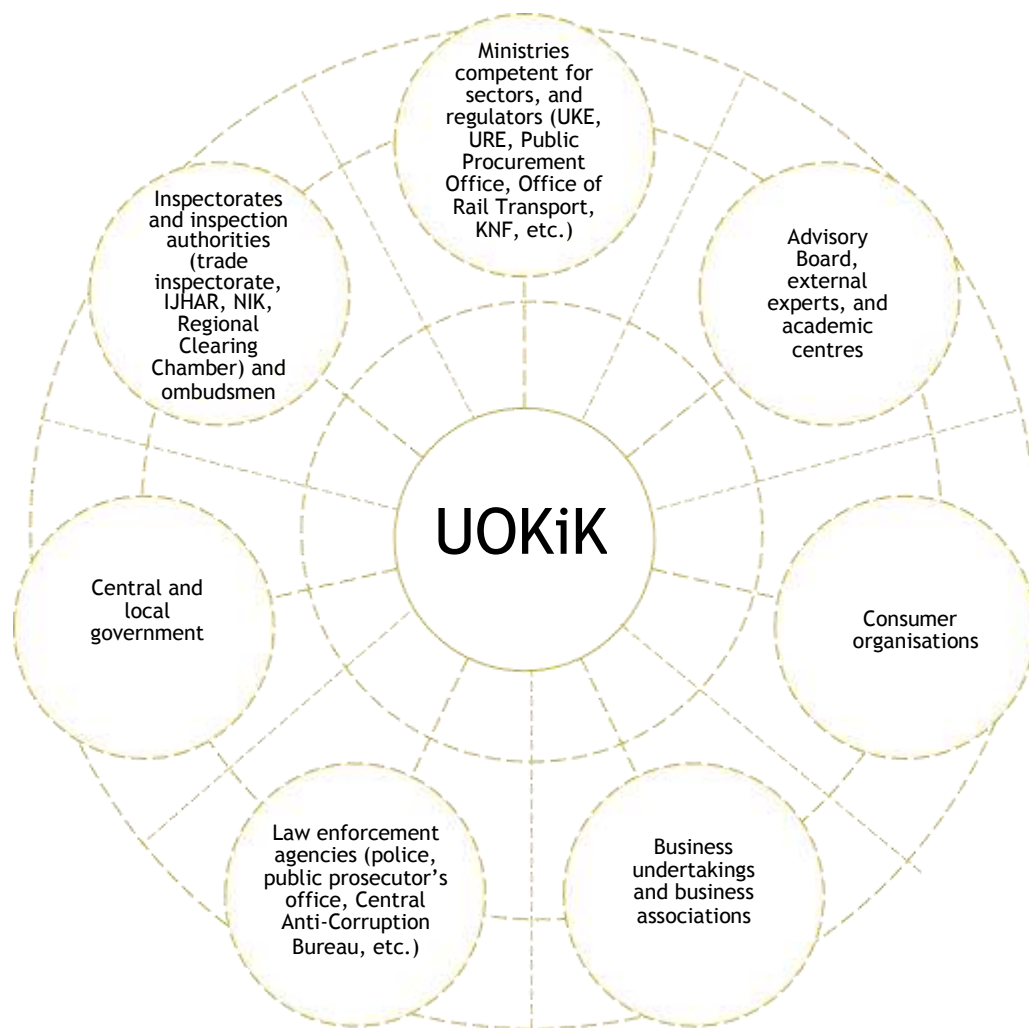
For the competition and consumer protection network to function effectively it needs to be stated which **entities** make up the network, and the **principles for their cooperation and coordination of their activities need to be defined.**

The competition and consumer protection network should be understood in a broad sense – as a range of elements, comprising public authorities, private/corporate entities, and NGOs. The **network** is made up of:

- UOKiK;
- the UOKiK Advisory Board and external specialists and the academic community;
- ministries;
- industry regulators;
- ombudsmen, in particular consumer ombudsmen;
- inspectorates and public inspection authorities;
- law enforcement agencies;
- other entities that operate as local public and local government authorities;
- business undertakings and business associations;
- NGOs, in particular those representing consumer interests.

While forming the competition and consumer protection network, in recent years UOKiK has signed cooperation agreements with the **Prosecutor General** and the **head of the Internal Security Agency**. These agreements relate among other things to exchange of information and coordination of activities for the identification, prevention, and combating of threats.

Diagram 5. Composition of the competition and consumer protection network



Source: own studies

The effectiveness of the competition and consumer protection network should be measured by its ability to **identify threats at an early stage**, and this is achieved by facilitating exchange of information and taking coordinated measures where a threat is detected. At the same time, within the network:

- there will be **ongoing exchange of experience and views** on the subject of the developing situation on the consumer product and service markets;
- **permanent operational contacts** will be established, and **joint training sessions** and **regular exchange of information with law enforcement agencies** will be organised in relation to competition and consumer protection;
- meetings will be held **regularly with business and consumer organisations**;

- **long-term market monitoring activities will be conducted**, in particular with regard to market studies, and to analyses and gathering of information that is sent to individual authorities by consumers and business undertakings and their associations.

In addition, each authority operating within the network will set up, at its own initiative or if needed by another entity, **ad hoc problem-solving teams**. These teams will operate via various forms of cooperation, using various instruments, such as coordinated regulatory and inspection, awareness-raising and informational, and legislative activities.

3. Working in partnership with market players

The forming of the competition and consumer protection network will also entail creation of a **new standard in UOKiK's relationship with market players, in particular with undertakings**, as there is always a certain imbalance with regard to specialist knowledge of the functioning of a particular market – this knowledge remains in the hands of entities that operate on that market directly. This is why – in order that decisions be issued which take proper account of the existing situation – **UOKiK should be able to obtain information from undertakings**.

Importantly, undertakings that work with UOKiK should not wait for the outcome of administrative proceedings before making necessary changes to their practices and contractual clauses to safeguard consumer interests. In this respect it is important that undertakings **develop the appropriate level of sensitivity of the legal protection that consumers enjoy**. Also, by putting information obtained from undertakings to use, UOKiK can take action that is more predictable and understandable for the market. The resulting confidence in the way in which the law is enforced will in turn **reduce the risk faced by firms on the market**. Improved relations with market players will mean that the law is more effective and that the effects of the law are achieved more quickly with respect to undertakings. As a result, the standing of consumers will improve in less time.

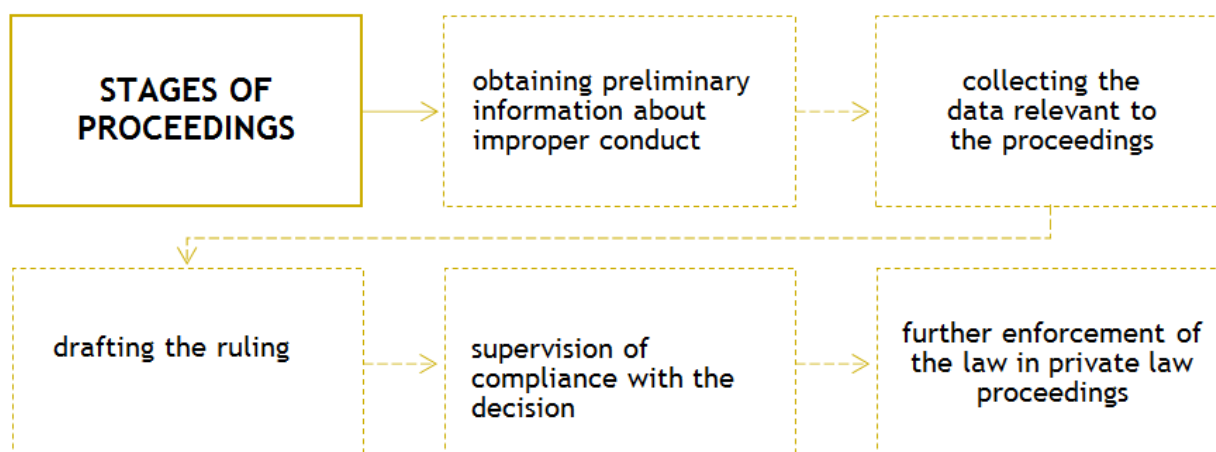
With regard to providing undertakings with information about the functioning of UOKiK, the **explanations and guidelines published on the UOKiK website**⁷ play an

⁷ Published January 2015; https://uokik.gov.pl/rules_for_contact_with_enterprises.php

important part. This enables undertakings to review the rules for practical compliance with law and the authority's rules on good practice. This renders UOKiK's activities more transparent and the procedures that undertakings encounter more understandable.

Partnership-style relationships with market players will be established at various stages of proceedings, and this is stated in UOKiK's rules for contact with enterprises⁸. UOKiK's standard procedure, in cases in which this is justified and is not prevented by the factual situation or legal considerations, is that **an undertaking can be interviewed and given the opportunity to put forward its point of view in a relatively informal context**, without legal procedures being applied, directly to the official handling the case. It is envisaged that it will be easy for an undertaking to obtain necessary information pertaining to the ongoing proceedings.

Diagram 6. Stages in proceedings at which UOKiK will work together with market players



When obtaining preliminary information about improper conduct – as has been the case up to now – the competition and consumer protection authority will encourage undertakings to send **any information** on that subject to UOKiK.

Reports which are received will be **analysed closely to determine whether they are legitimate** and the extent to which they pose a **threat to competition and consumers**. In cases in which other sources might also suggest improper conduct, UOKiK will conduct its own **market studies**, and ask the undertakings operating on the markets to give their opinion, and to assess how those markets function. In

⁸ https://uokik.gov.pl/rules_for_contact_with_enterprises.php

addition, undertakings that intend to ask UOKiK for clearance for a concentration will be able – before the formal filing is made – to discuss merger clearance issues with UOKiK officials.

Opinions provided during administrative proceedings by competitors and counterparties of an undertaking whose operations are being examined are an exceptionally valuable source of information about the practice being examined and any threat it might pose. When combined with the data obtained from the undertaking being examined and compared to the standpoint adopted by that undertaking, this information provides an **all-embracing and multifaceted evaluation of the way the market functions, needs with regard to intervention on the part of a competition and consumer protection authority, and the ultimate impact of any decision that might be issued on the position of consumers.**

During the period covered by the *Policy* many solutions will also be applied which make it possible to make use of specialist knowledge of undertakings and forms of cooperation with the entity whose case is to be ruled upon when the proceedings come to a close. **Market tests**, which are **consultations with market players concerning a draft of the decision in the case** before a competition and consumer authority issues a decision, will cover a broader range of issues than they do at the moment. This tool will enable UOKiK to find out the opinions of entities active in the fields affected by the prospective ruling. This will mean that market conditions are reflected more in issued decisions, and undertakings will identify more with the activities conducted by UOKiK.

Prior to issuance of a decision classifying a practice as a violation or imposing a fine for a violation of the Act on Competition and Consumer Protection, the entity being the subject of the decision will be provided with a detailed justification of charges for the allegations made (equivalent of the EC's *Statement of Objections*). It will therefore have the opportunity to express its view of the practices questioned in the decision. In addition – as at the moment – it will be able to make use of the **commitment** scheme. This means that an undertaking that is in breach of competition and consumer protection law **can avoid a penalty provided that it voluntarily makes a commitment to take or cease particular activities**, which

prevent further violations occurring. This is a solution that has advantages not only for the undertaking itself but also for the aggrieved parties. The questioned practice can therefore quickly be eliminated from the market, and, where justified, damage inflicted is remedied, which is particularly important for consumers. In certain cases this situation can be more beneficial than issuance of a decision imposing a fine, because the undertaking can agree to compensate consumers for their losses suffered as a result of the practice.

A partnership-style relationship with market players should also lead to **complementary legal measures** that lead undertakings to develop procedures that ensure compliance with the Act on Competition and Consumer Protection. It is important to note that a decision issued by UOKiK can be grounds for **private enforcement of law**. UOKiK will be promoting this procedure because public enforcement of law, above all, concerns the most severe infringements of competition and consumer protection law. Meanwhile, it is essential that compliance with this law and pursuit of claims in this respect in private proceedings be a commonly used solution irrespective of UOKiK's activities. This is the view taken in Directive 2014/104/EU of the European Parliament and of the Council of 26 November 2014 on certain rules governing actions for damages under national law for infringements of the competition law provisions of the Member States and of the European Union, and is covered by national law.

A greater role of private enforcement of competition and consumer protection law means that the idea can be realised of a **system** in which the two concurrently functioning types of procedure in which claims can be pursued, public law and private law, will **complement each other**.

This is because these procedures can be complementary to each other, and when applied they lead to a common goal – intensive enforcement of legislation with respect to undertakings that obstruct mechanisms or infringe consumer rights.

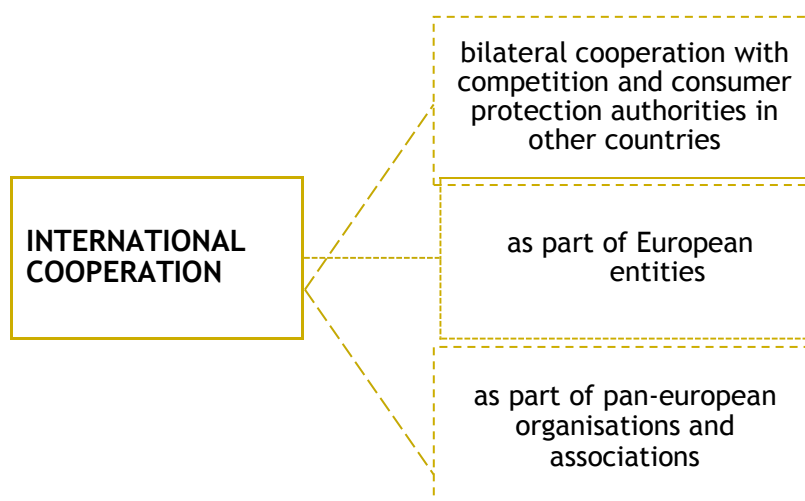
The solutions mentioned above are the simplest to describe but are **not the only methods of maintaining partnership-style relationships with market players**. UOKiK will attempt to take account of opinions of entities on the market in every aspect of its activities.

4. Openness to exchange of information and experience

In order to carry out duties relating to competition and consumer protection it is vital to act on the basis of **know-how and information collected within UOKiK and conclusions reached on the basis of national case law**. In cases where UOKiK encounters problems which have not been addressed in past cases, **monitoring of the rulings made by the relevant authorities in other countries** might be particularly useful. In view of possible similarities in the way in which entities function on markets in various countries and the products they sell, the analyses conducted by these authorities could give an initial picture of the scale of the threat to the domestic markets. Conclusions reached on the basis of rulings might also be useful when considering issues that are key to UOKiK and selecting the correct method for analysing a situation.

UOKiK will therefore apply good practices and know-how of the EC and competition and consumer protection authorities of other EU Member States. In this respect, it is important to continually observe CJEU rulings. This is true in particular of **analysis of preliminary proceedings** in terms of whether there are legitimate grounds for acceding to them, if a particular ruling might have implications for Polish rulings.

Diagram 7. Levels of UOKiK international cooperation



Source: own studies.

It is worth pointing out that application of good practice and know-how will take place **in two directions**. UOKiK activities on international forums allow true influence to be exercised over the way in which competition and consumer

protection challenges are perceived, which might be inspiration in the forming of an institutional and legal system in other countries. In addition, cooperation at the European level will lead to a unified approach to consumer issues, which will help to improve the way the common market functions.

Acting together with foreign partners, UOKiK will promote the solution adopted in Poland – **combining responsibility for competition and consumer protection in a single authority**. This formula, and the synergy obtained in this way, is currently the topic of broad discussion on international forums, and Poland is presented as an example and a pioneer with regard to this solution.

International cooperation with regard to best practice will take place at **several levels**. In the narrowest group this is direct contact with other competition and consumer protection authorities, especially those in EU Member States. UOKiK will take part in works undertaken by authorities responsible for competition and consumer protection, for instance as part of the **European Competition Network and the Consumer Policy Network**. In addition, it will be working with foreign partners on the pan-European forum, including in work of the **International Consumer Protection Network, the International Competition Network**, and selected **OECD Committees**.

In addition to UOKiK work with organisations responsible for horizontal issues relating to competition and consumer protection, work will also be continued on forums focused on narrower fields which affect the situation of consumers – their position on the market and the level of their safety and protection. **Other state authorities which work together within the created network**, for example the Polish Financial Supervision Authority, the Chief Agricultural and Food Quality Inspector, and the President of the Energy Regulatory Office, will also be involved.

Legal and economic information and know-how will also be exchanged through the promotion by UOKiK of **competition and consumer protection issues as part of awareness and informational campaigns**. Educational projects with consumers in mind are intended to help to raise consumers' awareness of their rights. This will enable them to enforce their rights more effectively in disputes with traders and develop a critical approach to marketing offers.

As a rule, schemes conducted to raise awareness of competition protection issues are aimed at undertakings and are intended to make it easier for them to conduct their business in accordance with current competition and consumer protection legislation. This relates in particular to small and medium-sized firms which might unwittingly breach the law due to not having large legal departments.

Awareness-raising measures will also be correlated with the legislative process, and with current UOKiK rulings. At the same time they will constitute a response to diagnosed problems, and also include information about pending proceedings and decisions, and market studies being conducted by UOKiK. In the case of changes to major legal solutions concerning competition or consumer protection, the relevant booklets explaining the purpose and the most important details of the changes will be produced.

5. Promoting a culture of compliance among undertakings

The exercise of UOKiK regulatory powers such as imposing fines is not an end in itself. It is an indispensable reaction to harmful practices of undertakings and plays a preventative role, but does not automatically eliminate them. For this reason, in order to prevent infringement of competition and consumer protection law, it is important for undertakings to introduce a culture of compliance. This is **adoption and application of a code of rules and procedures that everyone in the firm is required to follow** – from the regular employees to management. These rules are provided for directly in the law, an industry's self-imposed code of practice, or a firm's best practice.

Introducing a culture of compliance should be a **key element of self-regulation by undertakings** which wish to observe good customs while attaining commercial goals. This should be a grassroots element in the forming of a culture of fair competition, of which a complementary element is a determined approach to prosecution by a competition and consumer protection authority for infringements. Developing compliance should thus be the practical dimension of **commercial integrity** in the broad sense, i.e. **respect for the law and ethics** in a business undertaking's activities. Good compliance rules, and involvement of **management boards, supervisory staff, and all employees** in applying them,

can be an effective means of minimising the risk of infringement of competition and consumer protection law.

Diagram 8. Desirable elements of compliance in a firm's marketing strategy with regard to competition and consumer protection



Source: own studies.

For this reason the competition and consumer protection authority will promote introduction of compliance into corporate culture, first and foremost by targeting business undertakings with awareness-raising initiatives, promoting at the same time the practice of incorporating into company marketing strategy elements such as **attention to compliance with competition and consumer protection legislation**, or **willingness to resolve disputes amicably**.

It should be emphasised however that UOKiK administrative decisions and fines imposed on undertakings for prohibited practices are also intended as an incentive for people in management positions to raise standards. In particular, introduction of a **system of financial penalties for managers for gross infringement of competition law** should be an incentive for businesses to introduce a code of good practice, and, as the next step, a complete compliance system. The prevention and/or early detection of prohibited practices should be a core element for managing boards of undertakings of their company procedures.

II. Effective protection of competition

Within the social market economy system adopted in the Polish Constitution, the appropriate conditions have to be assured for competition to function. Particular undertakings might attempt to restrict competition by way of mergers or by entering into prohibited agreements in pursuit of their own interests. At the same time, there are markets on which there is an inadequate level of rivalry due to the nature or structure of the market, for instance markets on which there are undertakings that hold a dominant position or even a monopoly. In such cases public authorities cannot allow undertakings to operate freely because this puts consumers and other businesses at the risk of exploitation, and competitors at the risk of being eliminated from the market.

1. Cartel-free economy – improvement of detection methods

Undertakings are prohibited by law from entering into any form of competition-restricting agreement. It is a priority for UOKiK to take **a firm stand with respect to the most harmful types**, i.e. price-fixing or market-sharing cartels, which usually take place in secret. The economy can prevent agreements of this kind being made only when the public authorities have the means of detecting and combating them effectively.

To do this, the options will be applied which were introduced in the amendment to the Act on Competition and Consumer Protection and which exist due to collaboration on a broader scale with other public agencies that are responsible for combating improper conduct in the economy, within the competition and consumer protection network.

For this reason, UOKiK is also intensifying *ex officio* measures, and in particular is **reinforcing the analytical and investigative functions** of a department within the Office which deals with competition-restricting practices, for example by developing investigative techniques.

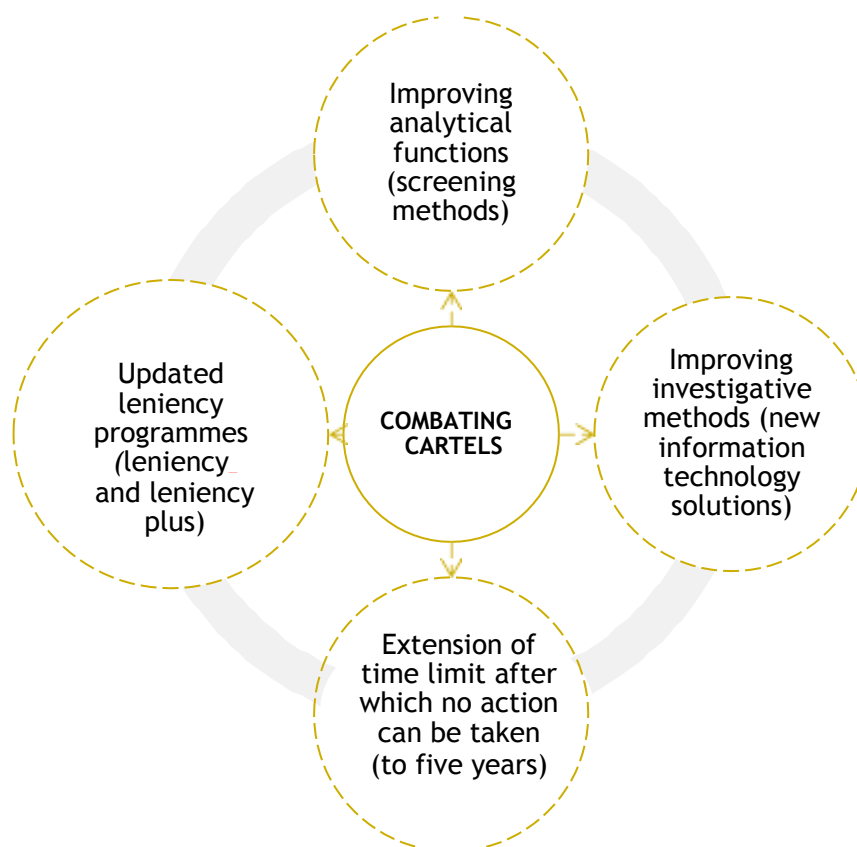
As the role of information technology becomes greater in economic life and advances are made in means of communication, new ways of entering into and expanding anti-competitive agreements, and concealing them, come into

existence. This means that it is more and more difficult to obtain direct material evidence of violation of the law. In order to meet these challenges the competition and consumer protection authority will adopt **new information technology solutions** which can be used to obtain material evidence in electronic form (for instance during inspections and searches) and to analyse it.

UOKiK will also be **developing its analytical support** resources by introducing **screening** methods, which are tools for detecting signs of violation of the act by analysing available databases. In light of globalisation processes, cartels more and more frequently operate supranationally, and for this reason decisions issued by competition and consumer protection authorities in other jurisdictions will continue to be monitored closely, and cooperation will continue within the European Competition Network, which is in line with the UOKiK objectives described above with regard to openness to exchange of information and know-how.

Another important element in the detection of cartels is **extension from one to five years of the time limit** for bringing prosecutions in cases concerning competition-restricting practices. This makes UOKiK intervention, including conducting inspections and searches, more effective. **Updated leniency programmes, leniency and leniency plus**, which are a valuable source of information about cartels functioning on the market for the competition and consumer protection authority, will also play an important role.

Diagram 9. Measures taken by the UOKiK to effectively combat cartels



Source: own studies.

Agreements between undertakings which are not competitors, i.e. **non-horizontal agreements**, need to be approached on a case-by-case basis. Agreements of this kind can be **beneficial to consumers**, for example where distribution is handled more efficiently. For this reason, intervention by a competition and consumer protection authority is justified only when **economic analysis shows** that the **anti-competitive effects of such practices outweigh the benefits for consumers**. UOKiK will draw up and publish guidelines on evaluating agreements of this kind, which will be developed as a result of dialogue with market players and follow Polish or European decisions concerning competition protection.

Combating collusion in public tenders

In the economies of EU countries, public spending is invariably a large portion of GDP, and a major portion of that spending is on direct or indirect purchase of goods, services, or construction works which take place in the form of a public

tender. According to public procurement office⁹ data, in 2013 tenders worth PLN 143.2 bn were awarded in Poland, which is 8.6 per cent of GDP. When this system functions properly, this guarantees that contracts are entered into by the most efficient undertakings, which prevail in fair conditions of competition. It means however also that the contracting authorities benefit, and in turn society gets the best terms for purchases.

Tender collusion is **prohibited under competition law** regardless of whether a tender is organised according to the Public Procurement law or otherwise. Tender collusion is **particularly harmful to society**, as it causes an increase in budgetary spending, which in turn indirectly triggers a greater need for fiscal revenues.

Within the competition and consumer protection network, the extent to which UOKiK works with state authorities responsible for making sure the public procurement system works properly will be expanded. This will relate in particular to exchange of information on ongoing proceedings and to information which is received concerning improper conduct on the market. In addition, activities relating to the powers and the methods employed by individual entities need to be meticulously coordinated. In this regard, the appropriate **legislative changes** need to be made **to enable evidence obtained by law enforcement agencies during their operations to be used in UOKiK proceedings**. This is a question among other things of use of technical tools by which information and evidence can be obtained and recorded in a manner not accessible to the public – mainly telephone conversations and other information transmitted via telecommunications networks and provided during procedural inspections – as well as recording of conversations conducted by the public prosecutor's office. UOKiK will also be developing its **own programme** intended to detect collusion in tenders organised on the basis of the Public Procurement Law, during which **analytical tools and methods of picking up signs of possible improper conduct** will be created.

In anti-collusion measures, cooperation between UOKiK and the **ministry responsible for regional development issues**¹⁰ is especially important. This is because irregularities in tenders organised based on the Public Procurement Law can lead to EU funds being withheld or delays in making use of such funds, and

⁹ <http://www.uzp.gov.pl/cmsws/page/GetFile1.aspx?attid=7824> (available only in Polish).

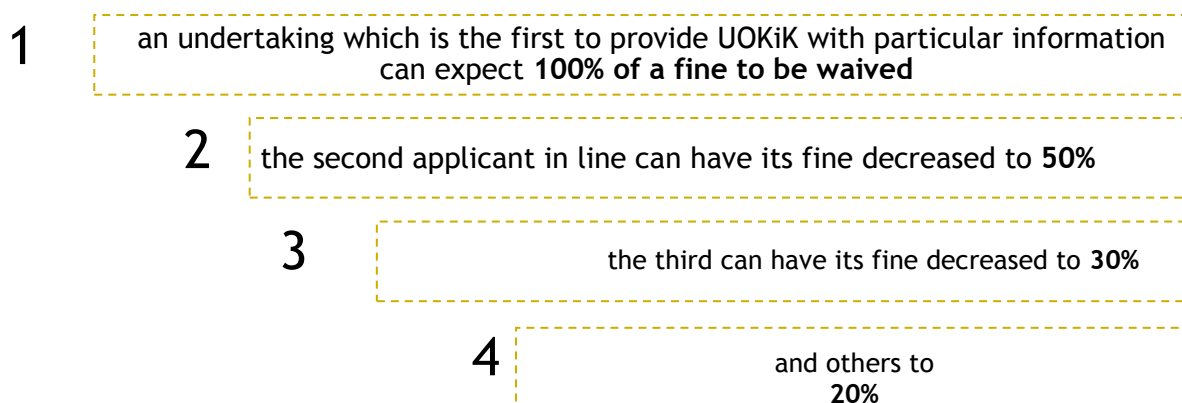
¹⁰ In 2015 this was the Ministry of Infrastructure and Development.

even to a portion of the funds being lost. For the entire duration for which the *Policy* is implemented, a programme of monitoring of public tenders involving spending of EU funds, which was launched in 2013, will continue.

Updating the leniency programme

Leniency programmes are a means of combating anti-competitive agreements, and are more and more popular among competition protection authorities around the world. In these programmes, **finances are lowered or full immunity is given to undertakings** which agree to be a “crown witness” and disclose details as to how an agreement functions and work with a competition protection authority in proceedings to issue a decision prohibiting competition-restricting practices. Use of this instrument in the Polish system dates back to 2004. It destabilises cartels, and it also helps in the detection of existing collusion and to prevent collusion occurring. The leniency programme has been updated in an amendment to the Act on Competition and Consumer Protection by making the rules more precise and also introducing the leniency plus programme, which, while not giving an undertaking the possibility of being a “crown witness” in ongoing proceedings, does allow an undertaking’s fine to be reduced further if it decides to reveal as yet unknown facts about a different anti-competitive agreement.

Diagram 10. Decreases in fines under the leniency and leniency plus programmes



Source: own studies.

At the same time UOKiK will continue awareness-raising and informational activities with regard to reform of the leniency programme. This is because awareness among undertakings and people in management posts that such a

scheme exists is key to it being successful as a deterrent against entering into prohibited forms of collusion. In this regard, the planned publication *Guidelines on the leniency programme* and promotion of a leniency helpline operated by UOKiK experts, which any prospective applicant and entity that has information about a cartel can call, are vital tools.

2. Competition protection on concentrated markets

The specific structure of some markets renders proper functioning of competition impossible. These include markets which are monopolised, markets on which there are dominant firms, and certain oligopolistic markets. These markets have in common the fact that it is **particularly difficult for new entities to gain entry to them**, usually due to legal restrictions or the cost of building the necessary infrastructure.

It should be stressed meanwhile that a dominant or monopolistic position on its own is not prohibited. If a firm has attained that standing on the market due to competing fairly and its own innovativeness, this does not necessarily endanger competition or consumers in every case. On the other hand, having a strong market position can lead to anti-competitive means, or practices which are exploitative of counterparties and consumers, being employed to preserve it.

For the duration of the *Policy*, anti-competitive conduct of undertakings active on highly concentrated markets will remain an important area on which UOKiK operations are focused. Abuses of this nature will be identified at an early stage due to continuous monitoring. Meanwhile, it will be important to exercise caution to ensure that action taken will serve to protect competition as a process, and not to protect less efficient competitors. This means that **economic analysis will have to play a greater role**, in this case by applying the relevant economic concept to check whether a particular practice gives rise to anti-competitive consequences. The competition and consumer protection authority will prefer forms of intervention which ensure first and foremost that the adverse consequences of illegal practices can be remedied quickly.

Monitoring activities of monopolies on local markets

UOKiK will pay particular attention to local markets on which there is the highest number of monopolistic undertakings. Greater emphasis will be placed on **detecting and eliminating exploitative practices**.

The practices of local monopolies are not very noticeable at nationwide economy level, but they can have a serious effect on small and medium-sized undertakings which operate within a small geographical area. Importantly, they can also have an adverse effect on consumer communities in those areas. In this regard, UOKiK acts through local branch offices which are considerably closer to cases of this kind and thus have a better understanding of and are in a better position to analyse the processes that take place there, and take the appropriate action. For the duration of the *Policy*, among other things, it will be a priority for these units to **monitor local markets on which there are entities which hold a dominant position**. Particular emphasis will be placed on compliance with competition law on **municipal waste management markets, water supply and sewage discharge markets, and local passenger service markets, principally land transportation**.

Supporting growth of competition on network industries

One particular type of market of concentrated structure is network industry. Activities on these markets require the **use of existing infrastructure**, which there is no economic justification for expanding. Markets for managing infrastructure of this kind are often **natural monopolies** but nevertheless on markets for services provided using that infrastructure there can be effective competition, if the appropriate legislation is in place.

Due to their importance for growth of the Polish economy, consumer interests, network industries, and the rapid changes taking place on them, network industries **require intensive and coordinated activity on the part of public authorities**, including ministries and industry regulators. Effective promotion of competition in the **energy, transport, and telecommunications sectors** requires that areas in which effective competition can be created be kept separate from the spheres of natural monopoly. Use should be made of industry regulation when market

mechanisms do not function properly, for various reasons; in particular in cases in which the fact that there is no effective competition is determined by access to rare products or vital infrastructure. Steps need to be taken however to liberalise network industries by broadening the scope in which the competition mechanism is used in these areas, where such liberalisation is possible. At the same time, the risk to consumers, which might be caused by deregulation which is too hasty, needs to be borne in mind. With regard to areas which operate according to competition principles, flexible measures have to be taken to maintain a high level of consumer protection, coordinated with regulatory decisions. **Industry regulators therefore need to be supported by the competition and consumer protection authority** which has a complementary set of tools for exerting an influence on the market.

An example of this can be found in the **telecommunications sector**, in which rapid technological and legislative changes are taking place. The competition pressure that this creates forces telecommunications operators to continually move on to new generation services, particularly noticeable on markets for access to the Internet, television, radio, and mobile and landline telephones. This in turn leads data transmission in a general sense as part of IP traffic, and a means of supplying it, to be the most important medium by which services are provided.

Over the coming years, the discussion on the future form of the telecommunications market, both at domestic and EU level, will probably continue. The continuing globalisation means that a **compromise has to be found between goals relating to creating a framework for operation of the European telecommunications network, and the interests of domestic operators**. Creating a single European telecommunications market therefore implies considerable investment outlays and gives rise to concern among operators as to the adverse effect unification of services might have on their revenue.

The EC's *Strategy for a Digital Single Market* of 6 May 2015 has a major impact on the areas in which changes on the telecommunications market occur, both at domestic and EU level. While laying down specific objectives in that document for the telecommunications sector (including creating cohesion and regulatory predictability in the EU with regard to the radio spectrum and investment) the EC needs to reconcile the efforts made to achieve them and the need to maintain

competition on the telecommunications market. The planned adoption of a regulation of the European Council and of the Parliament on a telecommunications single market will not solve this problem as it will only apply to a section of the market, i.e. the rules for an open Internet and roaming charges within the EU. In light of the situation described, the view has emerged that competition protection authorities should start now to take a more lenient approach to mergers of telecommunications companies. This does not seem to be the right approach however because only **effective reform of the telecommunications market can create the conditions that enable free competition throughout the whole of the EU** and the ensuing changes in the way notified concentrations are evaluated. In this area therefore a decisive and cohesive regulatory policy is needed.

With respect to the Polish telecommunications market the principal strategy paper is *Agenda cyfrowa 2020*, which defines the areas in which it will develop and the activities of regulatory authorities. In this case the priority should be creating regulatory conditions in which market players are able to provide broad band services anywhere where there is demand for them. It needs to be pointed out at the same time that the starting point for analyses cannot only be the current form of the market; analyses must also take account of ideas for its development.

Principally, therefore, **issues have to be regulated relating to building of infrastructure and operations of broad band skeleton networks**, which create the conditions for building local broad band access. At this point the role of regulators will be to supervise this process so that access created within them is allocated on a transparent and non-discriminatory basis.

Moreover, in order for the telecommunications sector in Poland to grow, it is exceptionally important for **the issue of sharing of the frequency spectrum** to be resolved, and this includes allocation of new scopes in a way that is favourable to competition. Action also needs to be taken aimed at creating solutions that give an industry regulator effective control over how the spectrum is used. This concerns first and foremost the question of shared use of frequencies as well as reselling and making the frequency available to other entities. It would also be advisable to introduce standard time periods for which reservations of frequencies apply and

create refarming procedures.

Influencing the legislative process to prevent the forming of monopolies

One good means of preventing abuse of a monopoly is not to allow legal monopolies to evolve. Legislative initiatives prepared by the government and other authorities can sometimes involve solutions intended to “properly organise the market”. This often involves creation of a monopoly by **granting exclusive rights to specific entities** or **placing restrictions on competition in some other way**. Initiatives of this kind are often inspired by a major public interest and sometimes are the sole means of eliminating highly destructive commercial conduct. Unfortunately it can also be the case that **seemingly beneficial solutions have the opposite effect to that intended**, where due to competition being eliminated completely, consumers are deprived of choice and put at the risk of increases in prices and poorer quality goods and services.

One of UOKiK’s priorities will therefore be **to play an active part in the legislative process**, both during work at government level and at parliamentary level, providing **expert opinions** with regard to the effect of legislation on competition and trying to propose **alternatives for regulating the market**.

3. Efficient concentration control

Mergers of businesses or of particular components of business enterprises can sometimes bring about significant commercial benefits, as the possibility of production-related assets being quickly reallocated is one of the fundamental mechanisms that ensures that a market economy functions efficiently. On the other hand, **not every concentration is desirable from the social point of view.**

It is for this reason that UOKiK has extensive powers with regard to control of concentrations and assesses transactions in terms of the effect they will have on the market. If there is reason to believe that the concentration could significantly hamper competition, UOKiK may issue **clearance subject to the applicant meeting certain conditions**. In cases in which this is not possible, i.e. there are no means that can be employed to counteract the significant restriction of competition - **it can prohibit the transaction**. UOKiK will also aim to **improve the quality of assessment of applications for concentrations, and speed up proceedings.**

Table 2. The mergers and acquisitions market in Poland and UOKiK concentration control

year	2012	2013	2014
number of transactions (EY figures)	276	270	245
total value of transactions in billions USD (EY figures)	8	8.8	6.4
cases concluded by UOKiK	155	177	190
number of times conditional clearance issued*	1	2	4

Source: drawn up by UOKiK on the basis of EY reports¹¹ and UOKiK reports on activities.

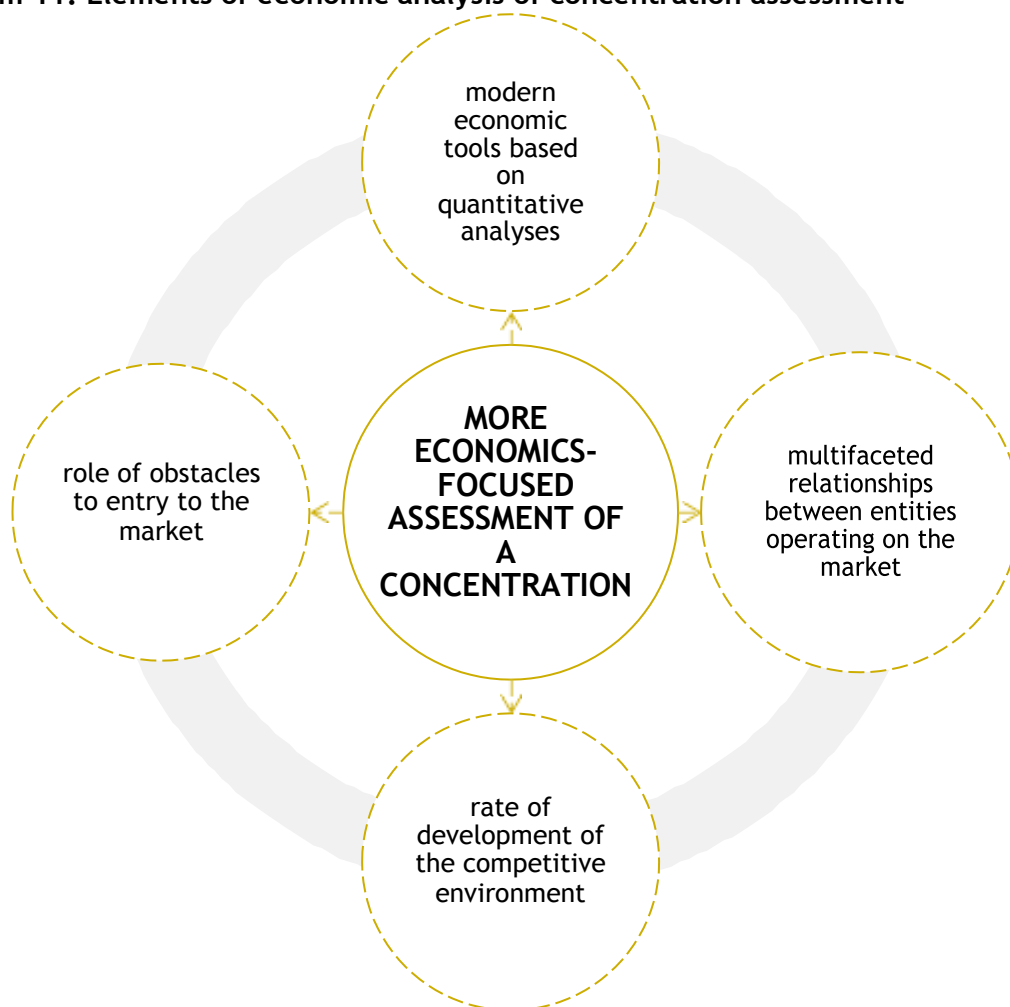
* In 2012-2014 UOKiK did not prohibit any concentrations.

¹¹ EY reports: Barometr fuzji i przejęć 2014, (<http://ey.media.pl/pr/295438/raport-ey-w-polsce-w-2014-roku-zawarto-245-transakcji-fuzji-i-przejec-daje-to-drugie-miejsce-w-regionie>, downloaded 10 June 2015, and <http://ey.media.pl/pr/236028/raport-ey-polska-drugim-krajem-w-regionie-pod-wzgledem-liczby-przeprowadzonych-transakcji-fuzji-i-przejec-w-2012-roku>).

Multifaceted nature of assessment

UOKiK assessment of transactions focuses on the commercial effects, and this is why improved quality of assessment of this kind will require **greater focus on economic analysis**. Simple methods, based on analysis of changes in market structures, are used mainly as a tool for initial segregation of transactions which could result in significant restriction of competition. In complex cases, more advanced instruments are required. UOKiK will improve the quality of analyses when assessing concentrations of this kind.

Diagram 11. Elements of economic analysis of concentration assessment



Source: own studies.

Where necessary, **modern economic instruments based on quantitative analyses** will be used. Assessment of concentrations will also be more economics-based as it will incorporate the **multifaceted nature of relationships between entities operating on the market, the rate of change in the competitive environment,**

and the **role of obstacles to entry of the market**. A large majority of concentration filings concern transactions that not only result in a change of ownership or in market structure, but above all make possible savings due to better asset management or achieving economies of scale. A more economics-based approach to assessment of concentrations means that where there are reasonable grounds, **arguments that the merging entities will be more efficient from an economic point of view will have an impact on UOKiK decisions**.

Fast handling of cases

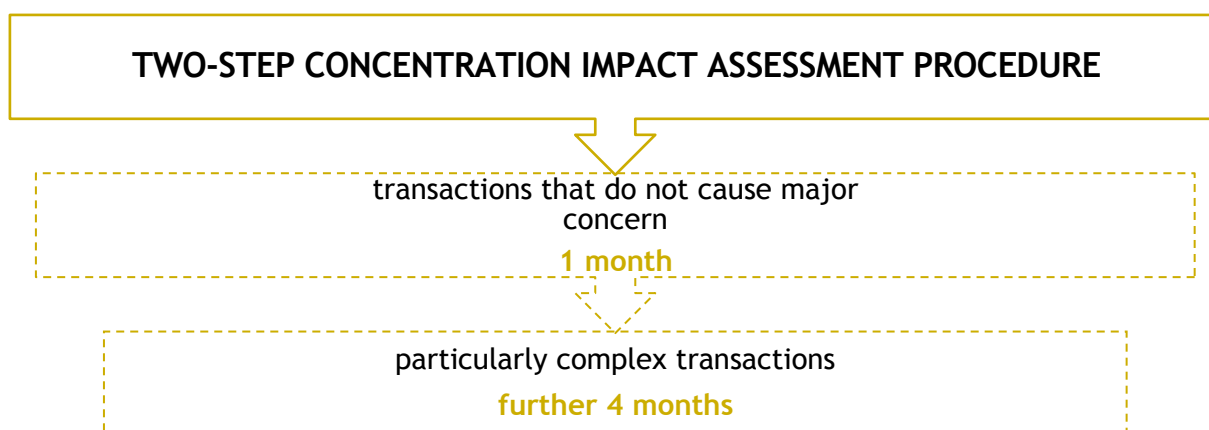
UOKiK clearance is usually one of the last steps in the process of finalisation of a corporate transaction. Prolonged administrative proceedings can even cause the concentration to be abandoned and be perceived as restriction of commercial freedom. For this reason the main goal of UOKiK in the near future will be to **reduce the average waiting time for decisions about concentrations**.

UOKiK guidelines concerning concentrations

The process of self-assessment in a concentration when preparing the filing will go smoothly and correctly only if methods used to assess the impact of concentrations are as **transparent** as possible. In order to make this easier for undertakings, detailed and clear guidelines are published, and are updated with each legislative development.

This will be helped along by amendments to the Act on Competition and Consumer Protection, introducing a **two-step procedure for assessing the impact of a concentration**. Past experience shows that in approximately 80 per cent of cases there are no grave concerns. In these cases, the policy will be to conclude the proceedings at the first stage of the assessment process, i.e. within one month. In particularly complex cases, which arise when upon completion of the standard analyses there is still concern that competition on the market might be significantly restricted, and that further analysis and market studies are needed, a second step is possible, and the time limit can be extended by four months.

Diagram 12. Steps of the concentration impact assessment procedure



Source: own studies.

Better communication

A key element of improved functioning of the concentration control system will be more efficient communication between the undertakings planning the transaction and UOKiK. To this end, **an option will be introduced in which consultations can be held on the concentration filing in the early stages of planning of the concentration, or before the filing is made.**

UOKiK will aim to enable undertakings to **independently perform a correct assessment of the impact of a proposed merger of assets.** This will mean that the specifics of the transaction can be shaped in such a way that the competition and consumer protection authority does not have any objections. This will prevent situations arising in which notified concentrations have to be prohibited, and considerably speed up the process of assessment of particularly complex filings.

With regard to cases which are currently under review and which are highly likely to lead to significant restriction of competition on the market, **a system will be introduced in which the undertaking is advised of the objections to the envisaged concentration.** The undertaking will be able to learn of UOKiK's concerns and address them before the decision is issued, and propose for example certain changes to the concentration which ensure protection of the market.

III. Effective protection of consumers

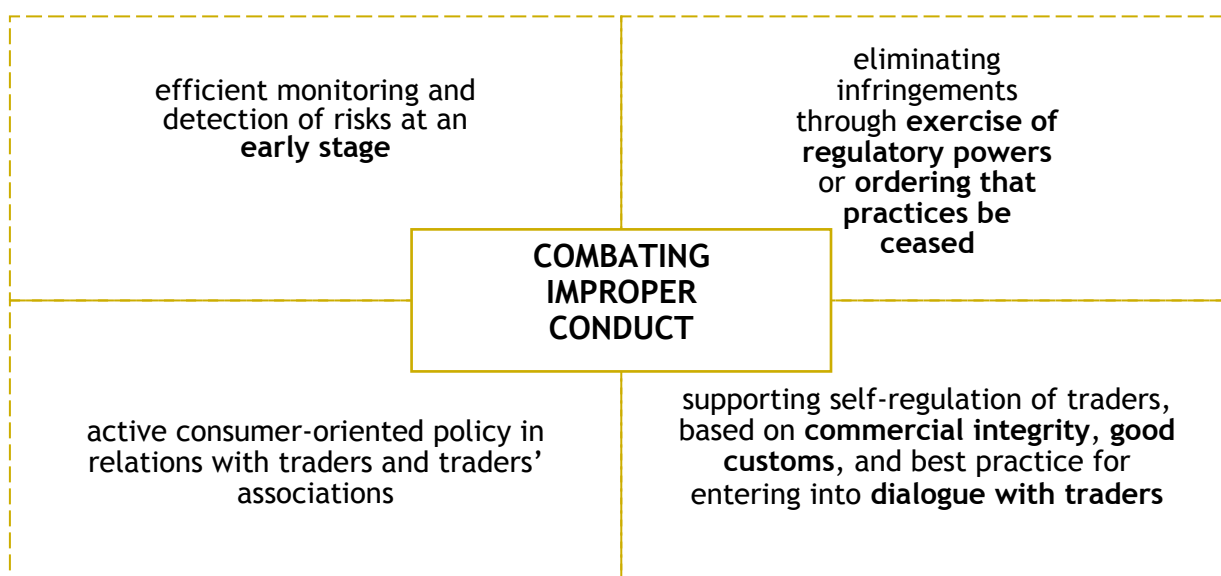
As important market players and the parties which benefit from fair competition, consumers make choices about purchases of goods and services on a daily basis. The decisions they make affect the financial standing of firms and the rate at which businesses grow. At the same time, it is in fact consumers who are the **weaker party in a transaction** – as often they are not given the opportunity to negotiate contracts, do not know the exact quality and composition of products, and have no way of knowing whether the trader is a partner that can be relied upon. This is also why **consumers need to be supported by a system** that assures them protection in individual cases and safeguards their collective interests at the same time.

1. Acting to prevent infringement of consumer rights

An analysis of consumer issues and the rapidly changing situation on the markets, related among other things to global economic change, reveals that UOKiK activities aimed at protecting consumers need to be intensified, and a methodical approach is needed when identifying problems and deciding the proper way to solve them.

The system of consumer protection in Poland, which functions mainly within public authority structures, is essential due to the fact that even the most informed and active consumer cannot avoid the imbalance in the relationship with a trader, who will often take advantage of a consumer's lack of awareness. The goal of the competent authorities is to **build a safe market for consumers by promoting the desirable approaches among traders and steering the exercise of regulatory powers** (fines, legal instruments, decisions, inspections).

Diagram 13. UOKiK activities with regard to consumer protection



Source: own studies.

Elimination of infringements

Regulatory measures taken by authorities operating within the competition and consumer protection network are a very important means of ensuring consumer safety.

UOKiK regulatory activities and inspections include:

- proceedings concerning practices infringing collective consumer interests and control of standard agreements used in consumer transactions;
- planned and ad-hoc inspections in selected areas of the market by the Trade Inspectorate;
- product safety.

Elimination of infringements is not only a question of the regulatory measures taken by authorities. Proceedings concerning practices infringing collective consumer interests can be concluded by way of **an order for the questioned activity to be stopped and a fine**, or **a commitment made on a voluntary basis** by an undertaking to take or cease particular conduct in order to eliminate the infringements. Administrative penalties should be proportional to the extent of the offence and also be in a form making it difficult to pass the burden on to consumers.

A practice infringing collective consumer interests **has to be rendered unprofitable**, and thus the highly detrimental practice of factoring potential penalties imposed by UOKiK into the risk connected with business activity must be stopped.

UOKiK will also try to monitor in a **consistent way entities which have in the past committed infringements or acted in full knowledge that they were being committed**. An important element of rulings will be the option for traders to compensate losses caused due to a prohibited practice. At the same time UOKiK rulings will increasingly translate into creation of the right conditions for respecting consumer rights. While having regard for consumer interests, and the interests of traders as well, UOKiK will be able to make use of a **commitment decision** to eliminate prohibited practices from trade quickly. A ruling of this kind benefits not only consumers, but also traders, as they avoid fines. The infringements cease, and the effects will be remedied according to conditions that the trader proposes and which UOKiK accepts.

UOKiK launches administrative proceedings in **cases that have major implications** for collective consumer interests or in cases in which **there is no other means of recourse for consumers to assert their rights**. This applies in cases of practices that affect a **broad group** of consumers, are a grave infringement of their **fundamental rights**, or are a **threat to their interests**, and the nature of those practices is such that they render impossible or hamper effective protection using individual legal protection instruments.

Among the markets within the domestic economy, special attention should be paid to those which, due to the nature of the goods to which the transaction¹² relates, require more intense activity on the part of government authorities – the e-commerce market and the financial services market.

¹² In information economics there are three categories of consumer goods, according to availability of information: goods the properties of which can be determined before purchase and use, goods the properties of which can be determined when in use, and goods the properties of which the consumer cannot determine even after use (P. Nelson, Information and Consumer Behavior, "Journal of Political Economy" 1970, no 78). Imbalance of information can occur in the second and third group of goods. This gives traders the possibility of using their information advantage for gain at the expense of consumers, and is grounds for intervention on the part of the state.

The markets on which UOKiK is active will be decided according to **diagnosis of the situation on the consumer goods and services market** – drawn up on the basis of monitoring of the market and information received from consumers, sociological research, monitoring of the media, and ongoing market analysis by consumer organisations, consumer ombudsmen, and the Trade Inspectorate.

With regard to e-commerce, the continuing convergence of electronic communications services, signifying the gradual merging of conventional communications services and the Internet, continues to be an important issue. The challenge in this case is to adapt conventional business activity and the legislation by which it is regulated to the changes that are eroding the boundaries between physical retail and online trade, or between the traditional and modern media.

When monitoring the e-commerce market, UOKiK will take into consideration **technological development, new types of services, and the ways in which they are sold**. At the same time, it is important to ensure that **Polish consumers enjoy the proper level of protection in international relations**, i.e. when a trader is in a different EU Member State. In this regard, support will be provided for EC activities that make the Consumer Protection Cooperation system more efficient. In particular, effective enforcement of law will have to be ensured if collective interests of European consumers are found to be infringed, and support will have to be provided for solutions that protect them against harmful conduct of entrepreneurs **based outside of the EU**.

In connection with globalisation and the rapid expansion of transactions effected online, it is vital that trends observed on the Digital Single Market are correlated with measures and development of consumer policy. At the same time, UOKiK will in particular support EU measures aimed at creating instruments to prevent unjustified geoblocking, or at developing effective methods of eliminating prohibited content from the Internet, by using in particular the *notice and takedown*¹³ procedure.

¹³ Currently provided for in the e-commerce directive, which says that internet intermediaries should take measures, at the request of the competent authority, to remove and disable access to illegal information.

The financial markets are another group of markets on which there is significant imbalance of information, due to the high level of complexity of the products on offer, leading to a greater risk that a consumer will enter into an agreement to his/her disadvantage. Products of this kind are offered by various groups of entities, such as **banks, insurance companies, financial intermediaries, and credit companies.**

Table 3. Examples of fines imposed by UOKiK in the banking and insurance sector

UOKiK President decision case number	level of fine
RWA-46/2012	PLN 23 669 928
RKT-55/2013	PLN 5 658 465
RWA-41/2012	PLN 14 696 882
DDK-13/2013	PLN 29 063 982
DDK-02/2014	PLN 21 122 088
RBG-30/2014	PLN 23 446 206

Source: own studies.

Consumers who make financial decisions quite often also make decisions about their future. Research¹⁴ also confirms that they see the financial sector as one of the least friendly sectors, and the one on which they are least likely to enforce their rights.

In order to address these diagnosed needs, supervisory and regulatory authorities will make it a priority to **monitor** this market **closely** and **create a model for an informed consumer**, who takes a sensible approach to the financial products on offer.

Above all, inspections will be conducted of entities active in this sector from the point of view of the reliable way in which **investment products** are offered and sold. Measures will also be taken to create mechanisms aimed at improving consumer protection at the pre-contractual stage. In addition, within their areas of

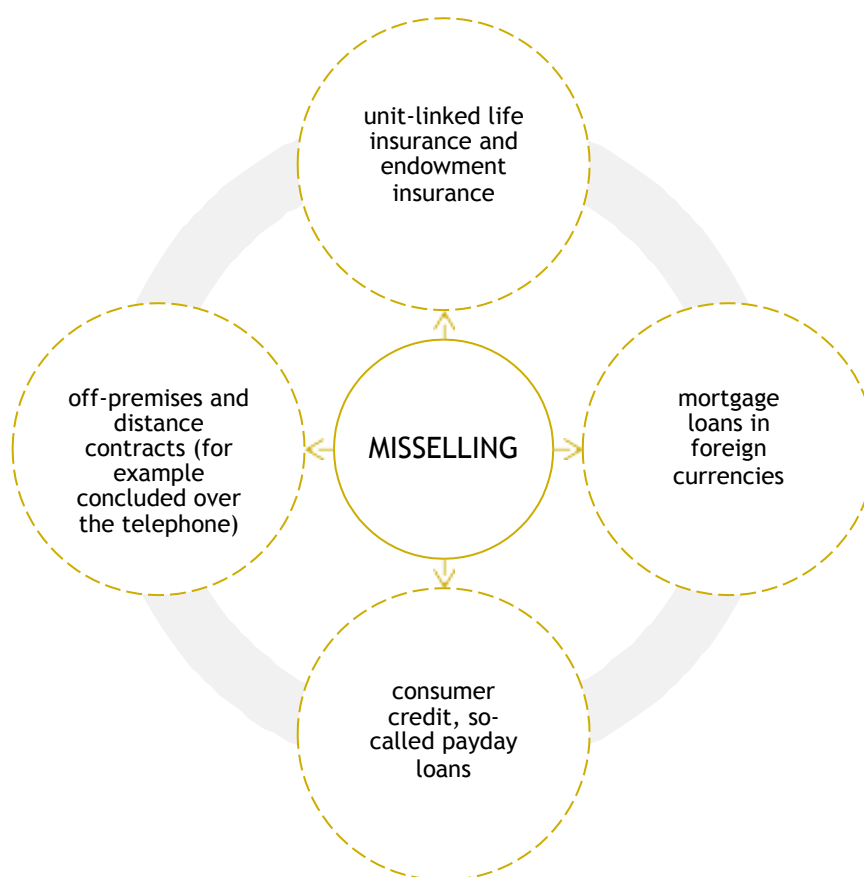
¹⁴ *Znajomość praw konsumenckich oraz analiza barier utrudniających konsumentom bezpieczne i satysfakcjonujące uczestnictwo w rynku.* Report on qualitative and quantitative studies for UOKiK, IB IPC i EU-Consult.

power, UOKiK and the KNF will also examine practices of undertakings that offer investment products both at the **pre-contractual stage** (checking the accuracy of messages conveyed in advertising, with regard to the potential gains, and the risk) and **when the agreement is being implemented**.

The goal of achieving a high level of consumer protection on the financial services market also makes it necessary to make use of legislative instruments, as over recent years there has been a noticeable rise in Poland of the problem of **misselling**, which is the **sale of products that are not suited to a consumer's needs**. This applies the most to financial products of a level of complexity (by nature or intention) that makes it impossible for the average consumer to assess whether they are appropriate. Examples of products of this kind include **unit-linked life insurance and endowment insurance, foreign currency mortgage loans**, and also **consumer credit facilities – so-called payday loans**, which are offered to consumers by credit companies on a short-term basis (usually a few months), and for which the cost of the credit is very high. Also, misselling can apply to off-premises and distance contracts (for example concluded over the telephone).

As at the end of the third quarter of 2014, unit-linked insurance was offered by more than **20 insurance** companies. The Polish Insurance Association says that there were more than 2.9 m insurance policies of this kind in 2013, and that from 2012 until the third quarter of 2014, the gross income from premiums from unit-linked insurance products came in total to more than PLN 34 bn. In the case of misselling with regard to unit-linked life insurance, consumers' individual losses are estimated to be between a few thousand and a few hundred thousand PLN.

Diagram 14. Products most often mis-sold

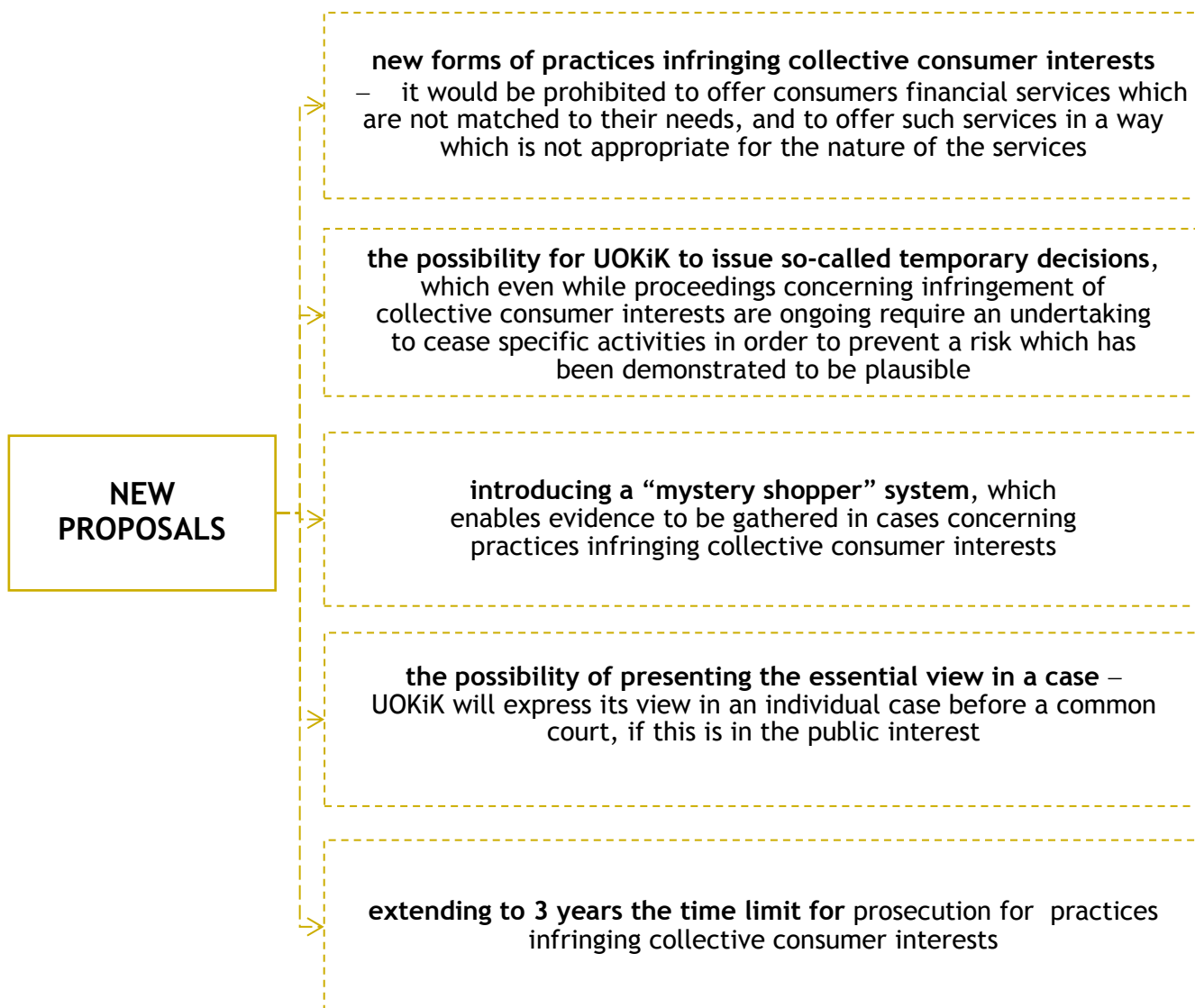


Source: own studies.

In order to prevent these negative tendencies the government has adopted amendments to the Act on Competition and Consumer Protection and the Civil Procedure Code.

A **new model for reviewing provisions of standard contracts** will complete the changes. UOKiK would rule a clause to be a prohibited clause and order its use to be stopped by way of an administrative decision; at the same time it would be able to specify the means by which the ongoing effects of the infringement are remedied. This model of control of clauses in standard contracts would be subject to **judicial control**. It is important to note that the **register of prohibited clauses would be replaced by a register of UOKiK decisions**. Regardless of these systemic changes, for a period of 10 years from the moment the new legislation comes into force, the register with the clauses recorded to date will continue to function. On the other hand, in response to consumer and traders' needs, a new information technology tool will be created enabling more precise results to be generated, due to new search criteria.

Diagram 15. Proposed legal solutions in the amendment to the Act on Competition and Consumer Protection and the Civil Procedure Code



Source: own studies.

The proposed changes to the system of non-case specific control of provisions in standard agreements are to **eliminate adverse tendencies such as** – filing lawsuits to have contract clauses ruled prohibited solely for financial gain, and inconsistencies in legal writings and case law with regard to so-called extended applicability of a ruling recorded in the register. This will mean that non-case specific control of standard agreements will be quicker and more efficient.

Another measure that is vital for eliminating infringements of consumer rights is **monitoring business activity of undertakings and the products on offer**, which is

performed by the Trade Inspectorate (IH), a body subordinate to UOKiK. In view of the need for consumer safety (and this includes financial safety) and information received from the market concerning improper conduct, monitoring measures will focus in particular on **fake foodstuffs, products which might contain prohibited substances, products which do not conform to EU harmonisation legislation, quality of fuel, and services sold in combination with other products and services.**

In view of the need for broader supervision of influx of products from third countries, the IH will take measures to work more closely with entities responsible for **border control.**

Consumer-friendly trader

It is consumers who are the driving force behind a modern economy, and their activities are the foundation for growth of the economy. For this reason it is in the interest of traders themselves to limit problems arising with regard to consumer protection and to eliminate infringements effectively.

The rate of growth on the market causes tendencies on the market which, while not being a breach of generally applicable legislation, **may have a major impact on consumers' feeling of safety** (in particular in the case of services provided on a mass scale, for example telecommunications or financial services). For the purpose of neutralising the adverse effects of these tendencies, in **dialogue** with traders or organisations representing particular sectors of industry, **UOKiK will identify the noted tendencies and order that the respective changes be made.**

UOKiK will support development of good market practice, in the form of measures that have a **preventative** effect on traders and **promotion of social responsibility in business.**

As part of measures that have a preventative effect on traders in this regard, UOKiK will:

- conduct an **analysis of the effectiveness of the instruments employed**, for example imposing fines, distributing information about entities that commit infringements, and awareness-raising activities;

- where appropriate – **provide representatives of traders’ associations with information about scheduled inspections** in particular market sectors;
- **ask representatives of traders’ associations to state their position before the findings of the inspection are made public.**

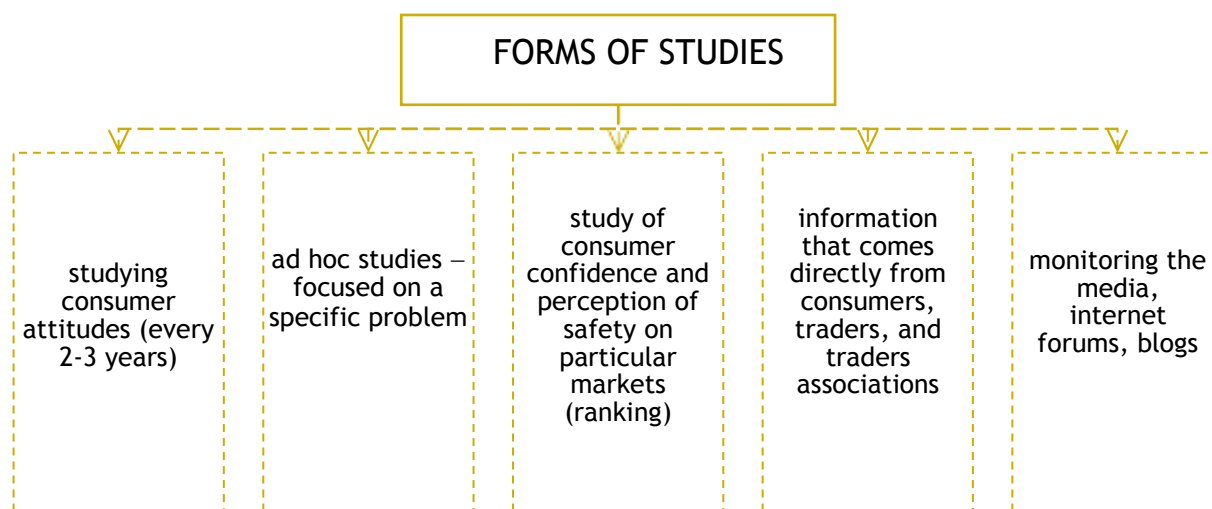
In addition, authorities that are part of the competition and consumer protection system will **take measures that support the development of self-regulation instruments**. At the request of entrepreneurs, the relevant bodies will be able to carry out an analysis of codes of good practice, and, where applicable, suggest areas in which changes could be made. Importantly, **this will not however have the same status as official approval of a document of that type by a particular authority.**

Monitoring product and consumer service markets

Activities of entities that are within the competition and consumer protection network should be performed where they can have the most effect. This can be ascertained by monitoring consumer activity.

By these means, information about consumer behaviour is provided before products or services are purchased. An analysis of this behaviour allows **a picture to be formed of how consumers operate** on a particular market.

Diagram 16. Forms of study of consumer activity



Source: own studies.

Monitoring data of this kind, at regular intervals and according to industry sector, makes it possible to **identify trends** and **form a ranking** presenting industry sectors, showing the level of **consumer confidence** and their **perception of safety**. This will make it possible to devise more efficient awareness and informational campaigns.

In addition, the findings of **regular analyses conducted by the EC as part of a table of results for consumer markets** will be included. This will enable comparison of the level of development in these spheres and of the feeling of safety among consumers in particular Member States.

Importantly, **letters from consumers and traders** that are sent to UOKiK and other authorities will be analysed. Information of this kind makes it possible to identify the sectors in which the situation of consumers requires greater attention and determine the issues that are the most urgent.

It is also worth noting that the **media** will be **monitored continually** to identify risk with regard to protection of collective consumer interests, especially in terms of **misleading advertising**. Particular attention will be paid to information directed towards large consumer groups, and vulnerable consumers, for example the elderly and children.

Monitoring advertising

UOKiK will be paying close attention to the quality of advertising, reminding consumers that an accurately conveyed message is one which provides information as required under the law.

For this reason, on one hand UOKiK **will provide support for self-regulation in this respect** – application of a good practice code, which gives guidelines for traders. On the other it will conduct the **relevant awareness-raising and informational campaigns**, rendering consumers less prone to the risks posed by unfair advertising, and **actively monitor this area and make use of regulatory tools** to quickly eliminate any improper conduct found. Meanwhile, with regard to legislative activities, UOKiK will support solutions relating to advertising on the consumer credit market, under which advertisers will be required to provide all of the information required by law in an equally clear way, while not displaying some

information in a more apparent way than other information.

On the financial services and insurance market in particular, monitoring of advertising will concern information provided about the rate of interest, total cost and amount due, annual percentage rate, any other charges (relating for example to review of the application for a decision, visits of a representative of a firm to the consumer) and determining whether the provisions of the proposed agreement match the message in the advertisement, and whether a customer has been provided with and has reviewed the information form prior to signing the agreement.

2. Active consumer

Every month new products and services are placed on the market, and consumers are inundated with information about them in advertisements. More and more Poles shop online, make decisions concerning purchases more and more quickly, and spend less time checking the details of an offer or the terms of an agreement. This often has costly and long-term consequences.

The rapidly growing and changing market is forcing consumer attitudes to change - the passive approach is being replaced by an active one. An active consumer **seeks information independently before making a purchase, and, if problems arise with goods or services, the active consumer wishes to make use of quick, inexpensive and effective tools to seek redress.** UOKiK activities will accommodate these tendencies, as cases in which consumers do not act independently to protect their interests should be kept to a minimum.

Improved mechanisms for alternative dispute resolution

The challenge of a developing market is to ensure that **instruments exist for quick resolution of disputes between consumers and traders.** In this regard, alternative means of dispute resolution can be an effective and inexpensive tool. A regulatory package adopted in May 2013 at EU level, including the ADR directive¹⁵ and the ODR

¹⁵ Directive 2013/11/EU of the European Parliament and of the Council of 21 May 2013 on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (Directive on consumer ADR), OJ L 165 of 18 June 2013.

regulation¹⁶, provides for creation and provision of access to a unified alternative dispute resolution (ADR) system in all Member States.

This system should include **all and any** consumer-trader **disputes that arise on the internal market** (concerning sale of goods and provision of services), including those arising in connection with agreements concluded online and cross-border agreements. Moreover, the system should be **all-embracing**, provide a **full horizontal range**, and **not have any loopholes**. Analyses conducted reveal that the most appropriate model for ADR in Poland will be the so-called **hybrid model**, formed by the authorities responsible for proper functioning of particular markets, the Trade Inspectorate, and private entities.

The building of the system will be accompanied by informational and awareness-raising measures, promoting the idea of ADR and encouraging trader associations to create entities of this kind.

Efficient collective redress procedures

Activity with regard to collective redress **can be an effective deterrent for undertakings from infringing collective consumer interests**. Consumers themselves see that this is right, and this point of view is expressed on the large number of internet forums and blogs devoted to current consumer problems.

In the years 2010-2013 a total of 115 collective redress claims were filed with courts. Between 2011 and 2013 there was notable **drop in the number of collective redress claims** (2011 – 37, 2012 – 35, 2013 – 22). To date only one case has resulted in a legally binding and final ruling; it lasted more than 1200 days.

The currently applicable legal solutions provided for in the Act of 17 December 2009 on pursuing claims in group proceedings do not meanwhile provide support for use of this mechanism. Collective redress claims are a complex, multiple-stage process that requires significant organisational input, and which discourages claims being pursued by way of this procedure.

The need to make collective redress claims more effective has also been noticed at

¹⁶ Regulation (EU) No 524/2013 of the European Parliament and of the Council of 21 May 2013 on online dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (Regulation on consumer ODR), OJ L 165 of 18 June 2013.

EU level. An EC recommendation¹⁷ states that consumer protection is one of the essential areas in which the possibility of enforcing rights in collective redress claims is particularly important.

This procedure should be made more efficient in particular by **speeding up proceedings, broadening the list of entities that can represent a group, simplifying the announcement procedure, and providing for the option of bringing the proceedings to a close in ADR proceedings**¹⁸.

Regardless of legislative measures, UOKiK observations show that correlating greater activity in the enforcing of individual claims with authorities' regulatory activities could lead to more efficient elimination of practices infringing collective consumer interests. This is another reason why UOKiK will encourage consumer organisations, consumers, and consumer ombudsmen to take measures, parallel to the regulatory measures, to obtain for aggrieved parties adequate compensation due to harmful practice or a prohibited clause.

If a consumer has suffered true financial losses as a result of prohibited practices or clauses, they should have **means of obtaining real recompense**. An efficient collective redress system could become a tool for pursuing claims, as well as a preventative tool.

Consumer warnings

The amendment to the Act on Competition and Consumer Protection has introduced public warnings of suspected use by traders of **particularly dangerous practices** infringing collective consumer interests. This is an additional safeguard that gives consumers time to react and prevents the adverse consequences of those practices.

It is worth pointing out that regardless of the new instruments, the system of public warnings given by the KNF will continue to operate on the financial services markets.

¹⁷ Commission Recommendation of 11 June 2013 on common principles for injunctive and compensatory collective redress mechanisms in the Member States concerning violations of rights granted under Union Law (2013/396/UE), OJ L 201/60 of 26 July 2013.

¹⁸ Proposals made in Action - an Analysis of the Relevant Regulations Through a Theoretical and Technical Prism after Four Years of its Operation, Dr M. Niedużak, M. Szwaś, Helsiński Foundation for Human Rights June 2014.

3. The power of information

Consumer welfare depends to a great extent on how appropriate their own decisions with regard to purchases are – consumers who are not aware of their rights are not able to **properly assess the risk and make the optimal choices**. For example, the lack of awareness of the special protection enjoyed in the case of distance purchases means that too often buyers decide not to make use of the favourable options available in that situation.

Providing consumers in an effective way with information about their rights and the organisations available to help strengthens their position on the market, encourages them to be active and open to innovation, and causes their conduct to be adapted to the changing consumption models. At the same time, consumers need to know that there are limits to protection, and that sellers also have certain rights.

Well-informed consumers will be able to identify unfair commercial practices by themselves and enforce their rights effectively, forcing traders to take on more social responsibility.

Building consumer awareness

As part of its informational activities UOKiK will encourage traders to incorporate into their marketing strategies **measures that safeguard consumer rights and readiness to settle disputes amicably**, accepting at the same time **the need to put the undertakings they have made into practice**. In view of the diverse nature of the target group, these initiatives will be adjusted to suit the needs and type of perception of individual addressees.

Moreover, UOKiK **will distribute information concerning proceedings, decisions, and market studies**. It will also make groups of entities more familiar with **currently applicable and changing regulations**: the Act on Consumer Rights, the amendment to the Act on Competition and Consumer Protection, legislation implementing the ADR directive, and changes to the model for controlling clauses in standard agreements.

UOKiK will also regularly provide information as to the practices infringing collective consumer interests of which market players need to **beware**, and which products placed on the market have been classified as **dangerous**.

UOKiK publications will cover information addressing current consumer issues, concerning activities correlated with the legislative process and UOKiK rulings; they will also relate to warnings given to consumers about risks (published on the authority's website).

In order to reach a broader group of recipients, awareness-raising activities will be performed via various channels, among them:

- **working with the media** – press releases, audio and video messages, appearances by experts on radio and television programmes;
- **conferences, debates, workshops, and seminars** attended by experts, consumers, entrepreneurs, and representatives of authorities; transmitted online; videos uploaded on the website www.uokik.gov.pl;
- **free publications** in printed and electronic form – which are available on the websites www.uokik.gov.pl and www.prawakonsumenta.uokik.gov.pl;
- **awareness-raising campaigns**: on the radio, television, Internet (banner campaign, advertising on search engines), product placement in television serials.

Other public authorities in the competition and consumer protection network are also becoming involved in consumer awareness campaigns, within their respective scope of powers. With regard to financial services, the Ministry of Finance will conduct a social campaign, and the Financial Supervision Authority will hold seminars for professionals and academics. Educational activities with regard to telecommunications services via the Consumer Information Centre will be conducted by the Office of Electronic Communications. The Energy Regulatory Office is planning awareness and educational activities concerning the rights of electricity and gas users. The Office of Rail Transport will operate websites that distribute information about passenger rights. The Ministry of Education will continue to distribute information about consumer rights by acting through the

National Centre for Supporting Vocational and Continuing Education. The Ministry of Justice will continue measures aimed at providing market players and practitioners with access to common court case law, in particular lower-instance courts.

Vulnerable consumer

UOKiK and the other authorities within the competition and consumer protection network will act to safeguard the interests of vulnerable consumers, in particular the **elderly and children**.

Demographics both in Poland and in Europe show a decline in the birth rate and a systemic increase in the number of elderly people. **The increasing complexity of markets and obstacles preventing access to and evaluation of offers in the digital system** are an additional factor undermining the position of vulnerable consumers. These consumers can encounter difficulties in gaining access to data and when choosing among market offers which meet their expectations.

According to Central Statistical Office of Poland (GUS) forecasts, the percentage of residents of Poland aged over 65 will increase from 13% in 2010 to 23% in 2035.

Traders adapt the range of products and services on offer to the needs of older consumers by using various channels of information and sales techniques. During this adaptation process however traders sometimes resort to manipulative methods to effect a transaction. UOKiK aims to enable the elderly to become consumers **who make informed decisions and are aware of where to seek advice or assistance** if they have concerns or a dispute arises. Consumer ombudsmen have been suggesting for many years that the problem with distance contracts is a problem that often affects the elderly, who can be successfully persuaded by sales representatives at various sales presentations and meetings to make rash purchases. When taking action of this kind the key issue will be an individual approach to a particular group of consumers. This will include forms of communication which have proven to be effective (for example the University of the Third Age, associations for the elderly), but new means of access will also be considered (for example through the local parish church).

UOKiK campaigns directed towards children and young people on the other hand are intended to make them more aware of their rights and create informed

consumers at the earliest possible stage of their education. Important issues in this regard are the issue of **protection of children against misleading advertising**, including advertising available in digital form, and the situation of minors who purchase digital content online. During campaigns targeting the young consumer, children need to be encouraged to share the knowledge they have obtained, and their observations, with older people in the family¹⁹.

Improving and developing advisory services

On rapidly growing consumer markets, there is a constant need for easy access to information about consumer rights. The increasing number of cases and problems in this area means that consumer entities and organisations in Poland need to use **new channels to get to the information needed**.

Communication channels, as well as the scope of information provided and direct help available, should be diversified in terms of organisation and subject matter. By the same token, support will be provided in obtaining information about consumer rights in cross-border and domestic transactions with respect to various sectors, services, and goods by a variety of methods – from specially set up **consumer helplines** and the relevant **internet platforms** to traditional, **direct contact**.

Statistics show that the first point of contact for consumer advice is a network of **370 consumer ombudsmen**, who provide **advice or intervene on a regular basis**²⁰ **450 times a year**. Their statutory tasks should be performed by **working** with the appropriate government authorities.

Firstly, UOKiK will continue its activities aimed at increasing social awareness of the role that ombudsmen play in creating a market that is safe for consumers, as well as collaboration with regard to training for ombudsmen.

Secondly, UOKiK will work to create an **effective platform for collaboration** between ombudsmen and entities that are part of the consumer protection system. Ombudsmen and consumer organisations should in particular be involved in the

¹⁹ An example of a campaign of this kind is the Consumer Knowledge Competition (Olimpiada Wiedzy Konsumenckiej) run by the UOKiK Poznań office. The tenth competition of this kind proved that this is a worthwhile way of promoting consumer knowledge and approaches among children and young people.

²⁰ According to a report on activities of local consumer ombudsmen (Sprawozdanie z działania powiatowych (miejskich) rzeczników konsumentów) consumer ombudsmen gave 443 356 consultations in 2013 and 444 391 consultations in 2012.

initiation of legislative amendments and issuing opinions on acts of law relating to consumer protection.

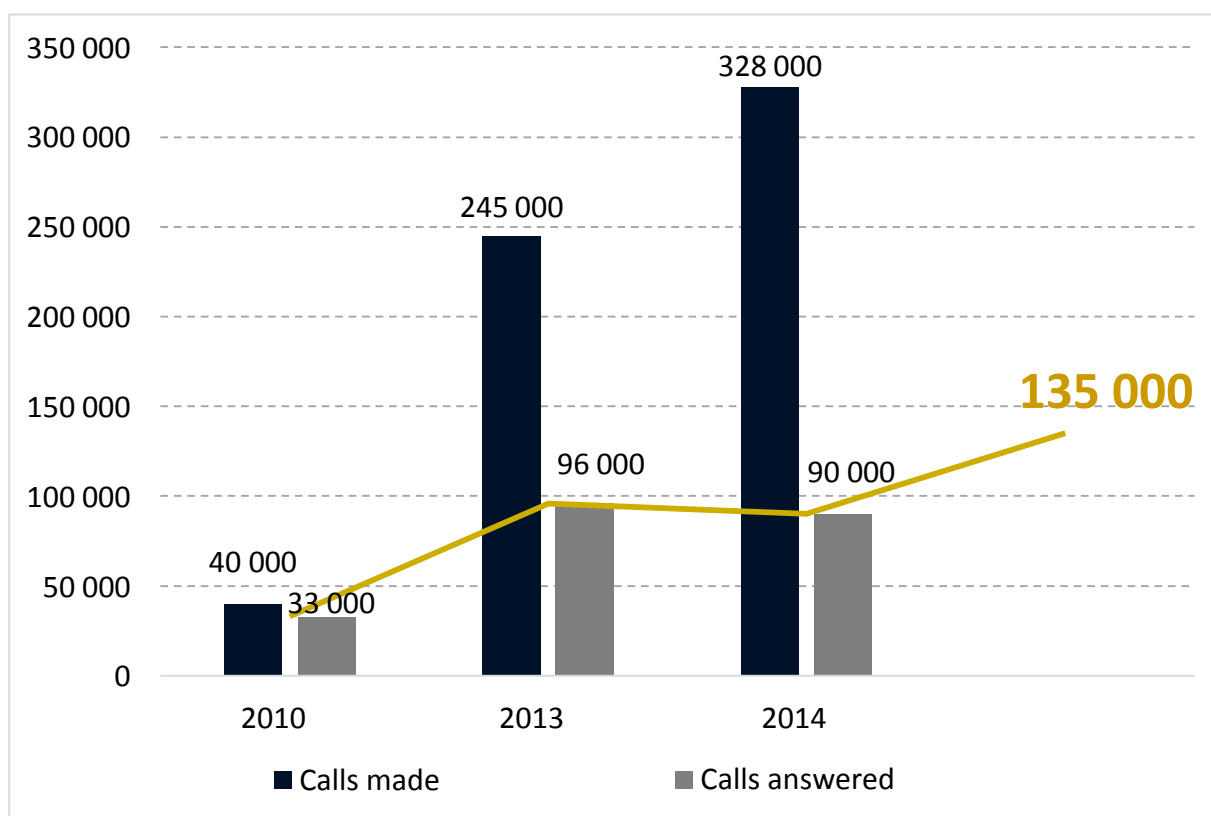
Experience gained through implementation of previous government strategies in this field shows that while this *Policy* is in effect it will be advisable to make **use of the potential of consumer organisations with regard to monitoring the market to a greater extent than is currently the case**. In particular, UOKiK will ask consumer organisations for information about dangers that appear on the market, and the information received will be used in the authority's ongoing activities, particularly when identifying sectors of major importance in terms of consumer protection.

With regard to cross-border commercial relations, an especially important role is played by the European Consumer Centre, which is part of the ECC-NET. It provides assistance with regard to information as to standards of consumer protection on the EU internal market. It also provides support for consumers seeking redress from traders based in the EU, Norway, and Iceland.

The growing number of consumer complaints means that the competent entities need to employ new channels of communication. These include a consumer helpline and the "e-advice" E-mail Consumer Centre.

Consumer helpline – provides advice free of charge on one telephone number. If the case reported cannot be resolved successfully over the telephone, the consultant gives the consumer information about the appropriate entities to turn to for legal advice in the particular case. Due to the increasing interest in advice given via this channel, UOKiK will take steps to make it function more efficiently, leading to shorter call queuing times and an increase in the amount of consultations given.

Diagram 17. Data concerning calls made and answered on the consumer helpline in the years 2010-2014



Source: own studies.

The “e-advice” E-mail Consumer Centre – via this platform, any consumer can be **given free legal advice**, provided by experienced consultants by e-mail. This will continue, subject to availability of funds, in future years in which the *Policy* is in effect.

Between July 2012 and December 2013 (with a two-and-a-half month interval) **more than 37 000 consultations were given**, which is approximately 2 300 consultations per month. In 2015 this number is estimated **to have risen by approximately 10%**.


UOKiK will also continue to work with consumer organisations, above all by giving them tasks with regard to consumer advice.

It is worth mentioning that specialist advice concerning the respective areas of the economy will continue to be given and expanded by:

- the Insurance Ombudsman – with regard to insurance;
- the Financial Supervision Authority (KNF) – with regard to products offered

by entities that fall under KNF supervision;

- Inspector General for Personal Data Protection – with regard to personal data protection;
- Information Desk for Users of Energy and Gaseous Fuels, a body at the Energy Regulator Office – with regard to electricity and gas;
- The Office of Electronic Communications Consumer Information Centre – with regard to telecommunications services;
- The National Broadcasting Council – with respect to complaints about a programme or advertising by radio and television broadcasters (with the possibility of filing a complaint using a special form available on a website);
- The Office of Rail Transport – as a form of assistance to passengers, this authority operates websites that contain advice for rail transport customers and it provides advice on passenger rights.



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