

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

Title I
General provisions

Article 1

1. The Act determines the conditions for the development and protection of competition as well as the principles of protecting the interests of undertakings and consumers in the public interest.
2. The Act regulates the principles and measures of counteracting competition-restricting practices and practices infringing collective consumer interests, as well as anti-competitive concentrations of undertakings and their associations, where such practices or concentrations have or may have impact in the territory of the Republic of Poland.
3. The Act also indicates the authorities competent in matters related to competition and consumer protection.

Article 2

1. The Act is without prejudice to any rights following from provisions concerning the protection of intellectual and industrial property, in particular the provisions on the protection of inventions, utility and industrial models, topography of integrated circuits, trademarks, geographical indications, copyright and neighbouring rights.
2. The Act shall apply to:
 - 1) contracts between undertakings, in particular licences, as well as to practices other than contracts concerning exercising rights referred to in paragraph 1 herein;
 - 2) contracts between undertakings related to:
 - a) technical or technological information,
 - b) principles of organisation and management

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

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

– which have not been disclosed to the general public and in relation to which measures have been taken to prevent their disclosure, where such contracts result in an unjustified limitation of the freedom of business activity of their parties or in a significant restriction of competition in the market.

Article 3

The provisions of the Act shall not apply to restrictions of competition allowed by virtue of separate provisions.

Article 4

For the purposes of this Act:

1) “undertaking” shall mean an undertaking in the meaning of the provisions on freedom of business activity, as well as:

- a) natural and legal person as well as an organisational unit without a legal status to which legislation grants legal capacity, organising or rendering public utility services, which do not constitute business activity in the meaning of the provisions on freedom of business activity,
- b) natural person exercising a profession on its own behalf and account or carrying out an activity as part of exercising such a profession,
- c) natural person having control, in the meaning of subparagraph 4 herein, over at least one undertaking, even if the person does not carry out business activity in the meaning of the provisions on freedom of business activity, if this person undertakes further actions subject to the control of concentrations, referred to in Article 13;
- d) associations of undertakings in the meaning of subparagraph 2 – for the purposes of the provisions on competition-restricting practices and practices infringing collective consumer interests;

2) “associations of undertakings” shall mean chambers, associations and other organisations associating undertakings referred to in subparagraph 1, as well as associations of such organisations;

3) “dominant undertaking” shall mean an undertaking having control, in the meaning of subparagraph 4, over another undertaking;

4) “taking over control” shall mean any form of direct or indirect acquisition of powers by an undertaking, allowing the undertaking, to exert, individually or jointly, taking into account all legal or factual circumstances, a decisive influence upon another undertaking or other undertakings. Such powers follow in particular from:

- a) holding directly or indirectly a majority of votes in the meeting of company members or general shareholders’ meeting, also in the capacity of a pledgee or user, or in the management board of another undertaking (dependent undertaking), including based on agreements with other persons,
- b) the right to appoint or recall a majority of members of the management board or supervisory board of another undertaking (dependent undertaking), including based on agreements with other persons,
- c) members of the undertaking’s management board or supervisory board constituting more than half of the members of another undertaking’s (dependent undertaking’s) management board,

d) holding directly or indirectly a majority of votes in a dependent partnership or in the general meeting of a dependent cooperative, including based on agreements with other persons,

e) holding a title to the entire or a part of the property of another undertaking (dependent undertaking),

f) contract which envisages managing another undertaking (dependent undertaking) or such undertaking transferring its profits;

5) "agreements" shall mean:

a) agreements concluded between undertakings, between associations thereof and between undertakings and their associations, or certain provisions of such agreements,

b) concerted practices undertaken in any form by two or more undertakings or associations thereof,

c) resolutions or other acts of associations of undertakings or their statutory organs;

6) "distribution agreements" shall mean agreements concluded between undertakings acting at different levels of the economic process aimed at purchase of products for further resale;

7) "goods" shall mean items as well as all forms of energy, securities and other property rights, services as well as construction works;

8) "prices" shall mean prices, also charges in the nature of prices, trade margins, commissions and markups;

9) "relevant market" shall mean a market of goods, which by reason of their intended use, price and characteristics, including quality, are regarded by the buyers as substitutes, and are offered in the area in which, by reason of their nature and characteristics, the existence of market access barriers, consumer preferences, significant differences in prices and transport costs, the conditions of competition are sufficiently homogeneous;

10) "dominant position" shall mean an undertaking's market position which allows it to prevent effective competition in a relevant market thus enabling it to act to a significant degree independently of its competitors, contracting parties and consumers; it is assumed that an undertaking holds a dominant position if its market share in the relevant market exceeds 40%;

11) "competitors" shall mean undertakings which introduce or may introduce, purchase or may purchase goods in the relevant market at the same time;

12) "consumer" shall mean a consumer as defined by the Act of 23 April 1964 – the Civil Code (Journal of Laws No. 16, item 93, as amended³);

13) "consumer organisations" shall mean social organisations independent of undertakings and of associations thereof, whose statutory tasks include the protection of consumer interests; consumer organisations may run business activity on general terms, provided that the income from the activity serves solely to finance the execution of the organisations' statutory tasks;

14) "capital group" shall mean all undertakings controlled directly or indirectly by a single undertaking, including that undertaking;

15) "revenue" shall mean the revenue gained in the fiscal year preceding the day of instituting the proceedings by virtue of the present Act, within the meaning of income tax provisions binding the undertaking;

16) "average remuneration" shall mean an average monthly remuneration in the business sector in the last month of the quarter preceding the day of issuance of a decision by the President of the Office of Competition and Consumer Protection, published by the President of the Central Statistical Office pursuant to separate provisions;

17) "business secret" shall mean business secret as defined in Article 11 paragraph 4 of the Act of 16 April 1993 on combating unfair competition (Journal of Laws of 2003 No. 153, item 1503, of 2004, as amended⁴);

18) "President of the Office" shall mean the President of the Office of Competition and Consumer Protection;

19) "EC Treaty" shall mean the Treaty establishing the European Community (Official Journal EC C 325 of 24.12.2002);

20) "Regulation No. 1/2003/EC" shall mean Council Regulation No. 1/2003/EC of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the EC Treaty (Official Journal EU L 1 of 4.01.2003, p. 1; Official Journal EU Polish special edition, chapter 08, volume 02, p. 205);

21) "Regulation No. 139/2004/EC" shall mean Council Regulation No. 139/2004/EC of 20 January 2004 on the control of concentrations between undertakings (Official Journal EU L 024 of 29.01.2004, p.1; Official Journal EU Polish special edition, chapter 08, volume 03, p. 40);

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

Article 5

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

Title II

Prohibition of competition-restricting practices

Chapter 1

Prohibition of competition-restricting agreements

Article 6

1. Agreements which have as their object or effect elimination, restriction or any other infringement of competition on the relevant market shall be prohibited, in particular those consisting in:

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

⁴ Amendments to the consolidated text of the aforementioned Act are published in the Journal of Laws of 2004, No. 96, item 959, No. 162, item 1693 and No. 172, item 1804, and of 2005 No. 10, item 68.

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

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

Article 7

1. The prohibition referred to in Article 6 paragraph 1 shall not apply to agreements concluded between:

- 1) competitors whose combined market share in the calendar year preceding the conclusion of the agreement does not exceed 5%;
- 2) undertakings which are not competitors, if the market share of any of them in the calendar year preceding the conclusion of the agreement does not exceed 10%.

2. The provisions of paragraph 1 shall not apply to cases specified in Article 6, paragraph 1, subparagraph 1 to 3 and subparagraph 7.

Article 8

1. The prohibition referred to in Article 6, paragraph 1 shall not apply to agreements which at the same time:

- 1) contribute to improvement of the production, distribution of goods or to technical or economic progress;
- 2) allow the buyer or user a fair share of benefits resulting thereof;
- 3) do not impose upon the undertakings concerned such impediments which are not indispensable to the attainment of these objectives;
- 4) do not afford these undertakings the possibility to eliminate competition in the relevant market in respect of a substantial part of the goods in question.

2. The burden of providing evidence to circumstances referred to in paragraph 1 shall rest upon the undertaking concerned.

3. The Council of Ministers may, by way of a regulation, exempt from the prohibition referred to in Article 6, paragraph 1, certain types of agreements which meet the conditions referred to in paragraph 1 above, taking into consideration the benefits resulting from such types of agreements. In the regulation, the Council of Ministers shall specify:

1) conditions which are to be satisfied for the agreement to be considered exempted from the prohibition;

2) clauses, the existence of which in the agreement constitutes the infringement of Article 6;

3) a period during which the exemption shall apply

and may specify clauses, the existence of which in the agreement is not considered the infringement of Article 6.

Chapter 2 **Prohibition of abuse of a dominant position**

Article 9

1. The abuse of a dominant position in the relevant market by one or more undertakings shall be prohibited.

2. The abuse of a dominant position may, in particular consist in:

1) direct or indirect imposition of unfair prices, including excessive or predatory pricing, delayed payment terms or other trading conditions;

2) limiting production, sale or technological progress to the prejudice of contracting parties or consumers;

3) application to equivalent agreements with third parties onerous or not homogenous agreement terms and conditions, thus creating for these parties diversified conditions of competition;

4) making conclusion of the agreement subject to acceptance or fulfilment by the other party of another performance having neither substantial nor customary relation with the subject of the agreement;

5) counteracting formation of conditions necessary for the emergence or development of competition;

6) imposition onerous agreement terms and conditions, yielding to this undertaking unjustified profits;

7) dividing the market according to territorial, product, or entity-related criteria.

3. Legal actions which constitute abuse of a dominant position shall be in their entirety or in the respective part void.

Chapter 3

Decisions concerning competition-restricting practices

Article 10

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

Article 11

1. The decision referred to in Article 10 shall not be issued if the market behaviour of the undertaking no longer infringes the prohibitions specified in Article 6 or 9 of the Act, or in Article 81 or 82 of the EC Treaty.
2. In the case referred to in paragraph 1, the President of the Office shall issue a decision regarding the practice as restricting competition and shall declare it be discontinued.
3. The burden of providing evidence to circumstances referred to in paragraph 1 shall rest upon the undertaking.

Article 12

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

Title III
Concentrations of undertakings

Chapter 1
Control of concentrations

Article 13

1. The intention of concentration is subject to a notification submitted to the President of the Office in the case where:

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

2. The obligation referred to in paragraph 1 concerns the intention of:

- 1) merging two or more independent undertakings;
- 2) taking over by acquiring or taking up stocks, other securities or shares, or in any other way, direct or indirect control over one or more undertakings by one or more undertakings;
- 3) creation by undertakings of one joint undertaking;
- 4) acquisition by the undertaking of a part of another undertaking's property (the entirety or part of the undertaking) if the turnover achieved by the property in any of the two financial years preceding the notification exceeded in the territory of the Republic of Poland the equivalent of EUR 10 000 000.

Article 14

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

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

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

5) the concentration applies to undertakings participating in the same capital group.

Article 15

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

Article 16

1. The turnover referred to in Article 13, paragraph 1 shall include the turnover of undertakings directly participating in the concentration as well as of the remaining undertakings participating in the capital groups to which undertakings directly taking part in the concentration belong.

2. The turnover referred to in Article 14, paragraph 1 shall include the turnover of the to-be-taken undertaking as well as of its dependent undertakings.

Article 17

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

Chapter 2 Decisions concerning concentration

Article 18

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

Article 19

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

2. The President of the Office may impose upon the undertaking or undertakings intending to implement a concentration an obligation, or accept their obligation, in particular:

1) to dispose of the entirety or part of the assets of one or several undertakings,

2) to divest control over an undertaking or undertakings, in particular by disposing of a block of stocks or shares, or to dismiss one or several undertakings from the position in the management or supervisory board,

3) to grant a competitor exclusive rights

- determining in the decision referred to in paragraph 1 the time limit for meeting the requirements.

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

Article 20

1. The President of the Office shall, by way of a decision, prohibit the implementation of the concentration, if it results in a significant impediment to competition in the market, in particular by the creation or strengthening of a dominant position.

2. The President of the Office shall issue, by way of a decision, a consent for the implementation of the concentration as a result of which competition in the market will be significantly impeded, in particular by the creation or strengthening of a dominant position, in any case that the desistance from banning concentration is justifiable, and in particular:

- 1) the concentration is expected to contribute to economic development or technical progress;
- 2) it may exert a positive impact on the national economy.

Article 21

1. The President of the Office may revoke the decisions referred to in Article 18, Article 19, paragraph 1, and Article 20, paragraph 2, if they were based on unreliable information for which undertakings participating in the concentration were responsible or where undertakings did not comply with the conditions referred to in Article 19, paragraphs 2 and 3. In the case of revoking the decision, the President of the Office shall adjudicate on the merits of the case.

2. Where, in the cases referred to in paragraph 1, the concentration is already implemented and restoration of the competition in the market is otherwise impossible, the President of the Office may, by way of a decision, defining the time limit for its implementation under conditions specified in the decision, order in particular:

- 1) separation of the merged undertaking under conditions defined in the decision;
- 2) disposal of the entirety or part of the undertaking's assets;
- 3) disposal of stocks or shares ensuring the control over the undertaking or undertakings, or dissolution of the company over which the undertakings have joint control;

3. The decision referred to in paragraph 2 cannot be issued after the lapse of 5 years from the day the concentration was implemented.

4. The provisions of paragraphs 2 and 3 shall apply accordingly in cases whereby the intention of concentration has not been notified to the President of the Office, as stipulated in Article 13, paragraph 1, and when the decision banning the concentration has not been executed.

Article 22

1. Decisions referred to in Article 18 and Article 19, paragraph 1, or in Article 20, paragraph 2 shall expire, if within 2 years from their issuance date, the concentration has not been implemented.

2. The President of the Office may, upon request of an undertaking participating in a concentration, extend, by way of a resolution, the date, referred to in paragraph 1, by one year, if the undertaking has proved that no change has occurred as to the circumstance as a result of which the concentration may cause a significant impediment to competition in the market.

3. Before taking a resolution on the extension of the date referred to in paragraph 1, the President of the Office may carry out explanatory proceedings.

4. In the event that a resolution has been issued refusing an extension of the date referred to in paragraph 1, implementing a concentration upon the lapse of the time limit concerned shall require that the intent to implement the concentration be notified to the President of the Office, and that a consent be obtained for implementing thereof, under the rules and by the procedure as determined in the Act.

Article 23

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

Title IV

Prohibition of practices infringing collective consumer interests

Chapter 1

Practices infringing collective consumer interests

Article 24

1. Practices infringing collective consumer interests shall be prohibited.

2. A practice infringing collective consumer interests shall mean any unlawful activity of an undertaking detrimental to these interests, in particular:

1) application of clauses of standard forms of agreements entered in the register of prohibited clauses of standard forms of agreements, as referred to in Article 479⁴⁵ of the Act of 17 November 1964 – the Code of Civil Procedure (Journal of Laws of 1964 No. 43, item 296, as amended⁵);

2) a breach of the duty to provide consumers with reliable, truthful and complete information;

3) unfair market practice or other acts of unfair competition.

3. The sum total of individual consumer interests shall not be a collective consumer interest.

Article 25

The protection of collective consumer interests provided for in this Act shall be without prejudice to protection under other acts, in particular, including the provisions on counteracting unfair market practices and unfair competition. The provisions of this Act shall not apply to cases concerning recognizing the clauses of a standard form of an agreement as inadmissible.

Chapter 2

Decisions on practices violating collective consumer interests

Article 26

1. The President of the Office shall issue a decision on pronouncing a practice as violating collective consumer interests and ordering that the same be discontinued, if he identifies a breach of the prohibition specified in Article 24.

2. The President of the Office may identify, in the decision referred to in paragraph 1, measures for removing lasting effects of the violation of collective consumer interests with a view to ensuring compliance with the order, in particular commit the undertaking to issue a single or recurring declaration with such contents and in such form as may be prescribed in the decision. The President of the Office may also order the decision to be published in whole or in part at the expense of the undertaking.

Article 27

1. A decision referred to in Article 26 shall not be issued if the undertaking concerned has ceased to use the practice referred to in Article 24.

2. In a case as determined in paragraph 1, the President of the Office shall issue a decision assessing the practice as violating collective interests of consumers, and shall declare it be discontinued.

3. The burden of providing evidence to circumstances referred to in paragraph 1 shall rest upon the undertaking concerned.

4. The provision of Article 26, paragraph 2 shall be applied accordingly.

Article 28

1. If, in the course of proceedings regarding practices violating collective interests of consumers, it has been rendered plausible – on the basis of the circumstances of a given case, information comprised in the notification referred to in Article 100, paragraph 1, or information forming the basis for instituting proceedings – that the undertaking concerned uses the practice referred to in Article 24, whereas the undertaking charged with infringing such provision, has undertaken to take or discontinue certain actions aiming at preventing those infringements, then the President of the Office may, by way of a decision, impose an obligation to exercise the undertaken commitments.

5 Amendments to the aforementioned Act are published in the Journal of Laws of 1965 No. 15, item 113; of 1974 No. 27, item 157 and No. 39, item 231; of 1975, No. 45, item 234; of 1982 No. 11, item 82 and No. 30, item 210; of 1983 No. 5, item 33; of 1984 No. 45, item 241 and 242; of 1985 No. 20, item 86; of 1987 No. 21, item 123; of 1988 No. 41, item 324; of 1989 No. 4, item 21 and No. 33, item 175; of 1990 No. 14, item 88, No. 34, item 198, No. 53, item 306, No. 55, item 318 and No. 79, item 464; of 1991 No. 7, item 24, No. 22, item 92 and No. 115, item 496; of 1993 No. 12, item 53; of 1994 No. 105, item 509; of 1995 No. 83, item 417; of 1996 No. 24, item 110, No. 43, item 189, No. 73, item 350 and No. 149, item 703; of 1997 No. 43, item 270, No. 54, item 348, No. 75, item 471, No. 102, item 643, No. 117, item 752, No. 121, item 769 and 770, No. 133, item 882, No. 139, item 934, No. 140, item 940 and No. 141, item 944; of 1998 No. 106, item 668 and No. 117, item 757; of 1999 No. 52, item 532; of 2000 No. 22, item 269 and 271, No. 48, item 552 and 554, No. 55, item 665, No. 73, item 852 and No. 94, item 1037, No. 114, item 1191 and 1193 and No. 122, item 1314, 1319 and 1322; of 2001 No. 4, item 27, No. 49, item 508, No. 63, item 635, No. 98, item 1069, 1070 and 1071, No. 123, item 1353, No. 125, item 1368 and No. 138, item 1546; of 2002 No. 25, item 253, item 26, item 265, No. 74, item 676, No. 84, item 764, No. 126, item 1069 and 1070, No. 129, item 1102, No. 153, item 1271, No. 219, item 1849 and No. 240, item 2058; of 2003 No. 41, item 360, No. 42, item 363, No. 60, item 535, No. 109, item 1035, No. 119, item 1121, No. 130, item 1188, No. 139, item 1323, No. 199, item 1939 and No. 228, item 2255; of 2004 No. 9, item 75, No. 11, item 101, No. 68, item 623, No. 91, item 871, No. 93, item 891, No. 121, item 1264, No. 162, item 1691, No. 169, item 1783, No. 172, item 1804, No. 204, item 2091, No. 210, item 2135, No. 236, item 2356 and No. 237, item 2384; of 2005 No. 13, item 98, No. 22, item 185, No. 86, item 732, No. 122, item 1024, No. 143, item 1199, No. 150, item 1239, No. 167, item 1398, No. 169, item 1413 and 1417, No. 172, item 1438, No. 178, item 183, item 1538, No. 264, item 2205 and No. 267, item 2258; of 2006 No. 12, item 66, item 466, No. 104, item 708 and 711, No. 186, item 1379, No. 208, item 1537 and 1540, No. 226, item 1656 and No. 235, item 1699; and of 2007 No. 7, item 58, No. 47, item 319, No. 50, item 331, No. 99, item 662, No. 106, item 731, No. 112, item 766 and 769, No. 115, item 794, No. 121, item 831 and No. 123, item 849.

2. In the decision referred to in paragraph 1, the President of the Office may determine the final date(s) for implementing the undertaken commitments.
3. In the decision referred to in paragraph 1, the President of the Office shall impose upon the undertaking an obligation to provide, within the fixed date(s), information regarding the stage of implementation of the assumed commitments.
4. In the event that a decision referred to in paragraph 1 is issued, Articles 26 and 27 and Article 106, paragraph 1, subparagraph 4 shall not apply, subject to paragraph 7.
5. The President of the Office may, on an *ex officio* basis, revoke the decision referred to in paragraph 1, in the event that:
 - 1) it has been issued on the basis of false, incomplete or misleading information or documents;
 - 2) the undertaking has not fulfilled commitments or obligations imposed thereupon in the decision referred to in paragraphs 1 to 3.
6. The President of the Office may, upon consent of the undertaking concerned, revoke the decision referred to in paragraph 1, if the circumstances that may have a significant impact on the issuance of such decision, have changed.
7. In the event that the decision is revoked, the President of the Office shall adjudicate on the merits of the case.

Title V
Organisation of competition and consumer protection

Chapter 1
The President of the Office

Article 29

1. The President of the Office shall be the central government administration body competent in the protection of competition and consumers. The Prime Minister shall supervise activities of the President of the Office.
2. The President of the Office is:
 - 1) an authority performing tasks imposed upon the authorities of the Member States of the European Union, pursuant to Articles 84 and 85 of the EC Treaty. In particular, the President of the Office shall be the competent competition authority within the meaning of Article 35 of Regulation No. 1/2003/EC;
 - 2) a single liaison office within the meaning of the provisions of Regulation No.2006/2004/EC and, in the scope of his statutory competences, shall be the competent authority referred to in Article 4, paragraph 1 of Regulation No. 2006/2004/EC;
3. The Prime Minister shall nominate the President of the Office from among the persons selected as a result of an open and competitive recruitment process.
 - 3a. The position of the President of the Office may be occupied by a person who:
 - 1) holds a Master's or equivalent degree;

- 2) is a citizen of Poland;
- 3) enjoys full public rights;
- 4) has not been sentenced with a valid verdict for a deliberate crime or a deliberate fiscal crime;
- 5) possesses managerial abilities;
- 6) holds minimum 6 years of employment track record, including minimum 3 years on managerial positions;
- 7) possesses education and knowledge in the fields for which the President of the Office is responsible.

3b. Information on recruitment to the position of the President of the Office shall be announced by way of publication in an easily accessible place in the Office and in the Public Information Bulletin of the Office and the Public Information Bulletin of the Chancellery of the Prime Minister. The announcement shall specify:

- 1) the name and address of the Office;
- 2) the position;
- 3) requirements related to the position as specified in the applicable regulations;
- 4) scope of duties to be performed in the position;
- 5) the required documents;
- 6) deadline and place to file documents;
- 7) information on recruitment methods and techniques.

3c. The deadline referred to in paragraph 3b, subparagraph 6 may not be shorter than 10 days from the publication day of the announcement in the Public Information Bulletin of the Chancellery of the Prime Minister.

3d. Recruitment to the position of the President of the Office shall be performed by a team nominated by the Head of the Chancellery of the Prime Minister by authority of the Prime Minister. The team shall be composed of minimum 3 persons whose knowledge and experience will assure that the best candidates are selected. During the recruitment process, the assessment shall be focused on the candidate's professional experience, knowledge required to perform the tasks in the position and managerial skills.

3e. The assessment of the knowledge and managerial skills referred to in paragraph 3d, on commission of the team, may be performed by a person who is not a team member and who holds qualifications adequate to perform the assessment.

3f. Team members or the person referred to in paragraph 3e shall be obliged to keep confidential all information on the persons applying for the position that may be acquired during the recruitment process.

3g. The recruitment process shall result in selection of maximum 3 candidates who will be presented to the Head of the Chancellery of the Prime Minister.

3h. The team shall draw up a report from the recruitment process specifying:

- 1) the name and address of the Office;
- 2) the position for which the recruitment process was performed and the number of candidates;
- 3) first and last names, addresses of maximum 3 best candidates in the order of the extent they meet the requirements specified in the announcement on recruitment;
- 4) information on the applied recruitment methods and techniques;
- 5) justification of the selection or reasons for not selecting a candidate;
- 6) members of the team.

3i. Results of the recruitment process shall be published without delay in the Public Information Bulletin of the Office and the Public Information Bulletin of the Chancellery of the Prime Minister. Information on the results of the recruitment shall specify:

- 1) the name and address of the Office;
- 2) the position for which the recruitment process was performed;
- 3) first and last names of the selected candidates and their places of residence within the meaning of the provisions of the Civil Code or information of failure to select a candidate.

3j. The publication of the announcement on recruitment and results thereof in the Public Information Bulletin of the Chancellery of the Prime Minister is free of charge.

4. The Prime Minister shall dismiss the President of the Office. The President of the Office shall perform his duties until the date of appointing his successor.

5. *[Repealed]*

6. The President of the Office shall perform his tasks supported by the Office of Competition and Consumer Protection, hereinafter referred to as “the Office”.

7. *[Repealed]*

8. *[Repealed]*

Article 30

1. The Prime Minister shall nominate Vice Presidents of the Office from among the persons selected by way of an open and competitive recruitment process. The Prime Minister shall dismiss the Vice Presidents of the Office upon the request of the President of the Office.

2. The team performing recruitment to the positions referred to in paragraph 1 shall nominate the President of the Office.

3. The provisions of Article 29, paragraphs 3a to 3j shall apply accordingly to the recruitment to the positions referred to in paragraph 1.

Article 31

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

- 1) controlling undertakings' compliance with the Act;
- 2) issuing decisions in cases concerning counteracting competition-restricting practices, concentrations of undertakings, infringements of collective consumer interests, as well as other decisions stipulated in the Act;
- 3) analysing the level of concentration in the economy and on the market behaviour of undertakings;
- 4) preparing the draft government programmes for the development of competition and the draft government consumer protection policy;
- 5) co-operating with foreign and international consumer and competition protection authorities and organisations;

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

Article 32

1. The President of the Office shall issue the Official Journal of the Office of Competition and Consumer Protection.
2. The following information may be published in the Official Journal of the Office of Competition and Consumer Protection, in its entirety or part:
 - 1) decisions and resolutions of the President of the Office,
 - 2) judgements of the Regional Court in Warsaw- the Court of Competition and Consumer Protection, hereinafter referred to as "the Court of Competition and Consumer Protection",
 - 3) judgement of the Court of Appeal in appeal cases concerning the judgements of the Court of Competition and Consumer Protection,
 - 4) judgments of the Supreme Court concerning cassation of the judgements of the Court of Appeal,- or their conclusions.

3. The publications referred to in paragraph 2 shall be made with the omission of information constituting a business secret and other secret protected under separate provisions.

4. Information, communications, notices, explanations and interpretations of high significance to the application of provisions regarding the scope of activities of the President of the Office, shall be also published in the Official Journal of the Office of Competition and Consumer Protection.

Article 33

1. The Office shall be composed of the Central Office in Warszawa and Branch Offices in Bydgoszcz, Gdańsk, Katowice, Kraków, Lublin, Łódź, Poznań, Warszawa and Wrocław.

2. The Branch Offices shall be managed by their directors.

3. The Prime Minister shall determine, by way of a regulation, the territorial and material competence of the Branch Offices for cases falling within the scope of the activities of the President of the Office, taking into consideration the nature and number of cases occurring in the relevant territory.

4. In addition to the cases falling within their competence, the Branch Offices may deal with other cases entrusted to them by the President of the Office.

5. In particularly justified circumstances, the President of the Office may take over a case falling within the competence of a given Branch Office or refer it to be dealt with by another Branch Office, or refer a case falling within his own competence to be dealt with by an indicated Branch Office.

6. Decisions and resolutions in cases falling within the competence of the Branch Offices and in cases referred by the President of the Office pursuant to paragraph 5 above, shall be issued by the directors of the Branch Offices on behalf of the President of the Office.

Article 34

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

Article 35

1. *[Repealed]*

2. *[Repealed]*

3. The President of the Office may order the Trade Inspection to proceed with the inspection or to perform other tasks included in the scope of his activities.

4. *[Repealed]*

Article 36

[Repealed]

Chapter 2

Local government and consumer organisations

Article 37

The tasks in the field of the protection of consumer interests in the scope determined by the Act and by separate provisions shall be performed also by local government as well as by consumer

organisations and other institutions, the statutory tasks of which include the protection of consumer interests.

Article 38

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

Article 39.

1. The tasks of the local government at *poviat* level concerning the protection of consumer rights shall be performed by *poviat* (municipal) consumer ombudsmen, hereinafter referred to as “consumer ombudsmen”.

2. *Poviats* may, by way of an agreement, appoint a single consumer ombudsman.

Article 40

1. The consumer ombudsman shall be employed by the starost or city mayor in towns with *poviat* rights.

2. The consumer ombudsman shall be a person holding a university degree, in particular in law or economics and possessing minimum five years of professional experience.

3. The consumer ombudsman shall be directly subordinated to the starost (city mayor).

4. The organisational status of the consumer ombudsman shall be determined by the *poviat* statutes or regulations. In *poviats* populated by over 100 thousand inhabitants and in towns with *poviat* rights, the consumer ombudsman may perform his tasks with the help of an individual office.

5. For the remaining matters related to the legal status of the consumer ombudsman, the provisions of Act of 21 November 2008 on local government workers (Journal of Laws No. 223, item 1458) shall apply accordingly.

Article 41 *[Repealed]*

Article 42

1. The tasks of consumer ombudsman shall, in particular, include the following:

- 1) providing free of charge consumer advice and legal information in the scope of protection of consumer interests;
- 2) submitting requests for proclaiming and amending local regulations in the scope of protection of consumer interests;
- 3) addressing undertakings in cases concerning protection of consumer rights and interests;
- 4) co-operating with the territorially competent Office branches, bodies of Trade Inspection and consumer organisations;
- 5) performing other tasks prescribed by the present Act and by separate provisions.

2. Consumer ombudsman may in particular bring an action on consumers' behalf and, with their consent, join lawsuits in cases concerning protection of consumer interests.

3. In cases concerning petty offences to the detriment of consumers, consumer ombudsman shall act as a public prosecutor within the meaning of the provisions of the Act of 24 August 2001 – the Code of Procedure in Cases Prosecuted as Petty Offence (Journal of Laws No. 106, item 1148, as amended⁶).

4. Undertaking addressed by a consumer ombudsman acting pursuant to the provisions of paragraph 1, subparagraph 3, is under an obligation to provide the ombudsman with requested explanations and information and to take a stance in relation to comments and opinions of the ombudsman.

5. The provisions of Article 63 of the Act of 17 November 1964 – the Code of Civil Procedure shall apply accordingly, to consumer ombudsman.

Article 43

1. The consumer ombudsman shall submit for approval an annual activity report to the starost (city mayor) by 31 March each year which contains information on their activity in the preceding year as well as submit the report to the relevant local Branch Office.

2. *[Repealed]*

3. The consumer ombudsman shall be obliged to continually present to the Branch Offices the relevant conclusions and inform them about problems concerning consumer protection which require taking measures at the government administration level.

Article 44

1. The National Council of Consumer Ombudsmen, hereinafter referred to as “the Council” shall assist the President of the Office.

2. The Council shall be a standing opinion-giving and advisory body of the President of the Office in the scope of the matters related to protection of consumer rights at the *poviat* government level.

3. The tasks of the Council shall include, in particular:

1) submitting proposals on directions of legislative changes in provisions pertaining to protection of consumer rights;

2) giving opinions on matters related to draft legal acts or directions of the government consumer policy;

3) giving opinions on such other matters falling within the scope of protection of consumers as the President of the Office may refer to the Council;

4) conveying information concerning protection of consumers to the extent as indicated by the President of the Office.

4. The Council shall comprise nine consumer ombudsmen, one from each area of local competence of the branches of the Office of Competition and Consumer Protection.

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

5. The members of the Council shall be appointed and dismissed by the President of the Office. Appointments shall be granted upon a request of the directors of the branches referred to in paragraph 4, subject to a written consent of the recommended consumer ombudsmen. The recalling from the function of a consumer ombudsman shall result in the expiry of his or her membership in the Council.

6. The Office shall provide administrative support for the Council.

7. The Office shall refund to the members of the Council the costs of commuting to meetings of the Council in accordance with the provisions on dues to which a person employed in a state or local government unit of the budget sector is entitled in connection with domestic business travel.

8. The work practices of the Council shall be laid down in the regulations established by the President of the Office.

Article 45

1. The consumer organisations shall represent consumer interests towards the bodies of central and local government and may participate in the implementation of the government consumer policy.

2. The organisations referred to in paragraph 1 are, in particular, entitled to:

- 1) expressing opinions on the draft legal acts and other documents concerning rights and interests of consumers;
- 2) elaborating and disseminating consumer educational programmes;
- 3) performing tests of products and services and publishing their results;
- 4) editing periodicals, research studies, folders and leaflets;
- 5) providing free-of-charge consumer advisory services and free-of-charge assistance in handling consumer claims, unless the statutes of the organisation provide otherwise;
- 6) participating in the work on standardisation;
- 7) implementing government tasks in the field of consumer protection, commissioned to them by the central and local government administration bodies;
- 8) applying for allocation of public funds for the implementation of the tasks referred to in subparagraph 7.

3. The central and local government administration bodies shall be obliged to consult consumer organisations on the issues concerning the directions of activities aimed at protection of consumer interests.

Article 46

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

Title VI
Proceedings before the President of the Office

Chapter 1
General Provisions

Article 47

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

Article 48

1. The President of the Office may institute, on an *ex officio* basis, and by way of a resolution, explanatory proceedings, if the circumstances indicate a possibility that the provisions of the Act have been infringed, as to matters regarding a given branch of economy, or as to matters regarding protection of consumer interests, and in any other cases as provided for by the Act.
2. The explanatory proceedings may in particular aim at:
 - 1) initially determining whether an infringement of the provisions of this Act has occurred, such as may justify the institution of antimonopoly proceedings, including whether the case is of an antimonopoly nature;
 - 2) initially determining whether an infringement of the provisions of this Act has occurred, such as may justify the institution of proceedings regarding the use of practices violating the collective interests of consumers;
 - 3) a study of the market, including the determination of the structure and degree of concentration thereof;
 - 4) initially determining whether an obligation exists to submit a notification of an intended concentration;
 - 5) determining whether an instance of the violation has occurred, of any consumer interest being protected by the law, such as may justify the undertaking of actions specified in the relevant separate acts.
3. The explanatory proceedings shall be concluded by way of a resolution.
4. The explanatory proceedings should not last in excess of 30 days, and as regards particularly complex issues, not longer than 60 days from the date of the institution thereof.
5. In the case as referred to in paragraph 2, subparagraph 3, the provision of paragraph 4 and Article 35 of the Act of 14 June 1960 – the Code of Administrative Procedure (Journal of Laws of 2000 No. 98, item. 1071, as amended⁸) shall not apply.

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

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

Article 49

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

Article 50

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

Article 51

1. Only the original document or its copy certified by a public administration body, notary, attorney at law, legal adviser or authorised employee of the undertaking may serve as the documentary evidence in the proceedings before the President of the Office.
2. The evidence in the proceedings before the President of the Office shall constitute the document drawn up in the Polish language, subject to paragraph 3.
3. Where such document has been drawn up in a foreign language also the translation into Polish of this document or of its part intended to serve as the evidence in the proceedings should be submitted, certified by a sworn translator.

Article 52

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

Article 53

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

the Office carrying out the hearings.

Article 54

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

Article 55

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

Article 56

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

Article 57

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

Article 58

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

Article 59

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

Article 60

1. During the proceedings the President of the Office may hold a hearing.
2. The hearing referred to in paragraph 1 shall be an open session , subject to paragraph 4.

3. The President of the Office may summon for the hearing, and examine parties, witnesses as well as ask for an expert opinion.

4. The hearing referred to in paragraph 1 is a closed session, if during its course, the information considered is subject to business secrecy or other secrecy protected under separate provisions. The provisions of Articles 153 and 154 of the Act of 17 November 1964 – the Code of Civil Procedure, shall apply accordingly.

Article 61

The President of the Office may address a territorially competent regional court to examine witnesses and obtain an expert opinion, where it is supported by the nature of the evidence or consideration of significant inconvenience or significant costs of obtaining the evidence. When addressing the court for providing evidence, the President of the Office shall issue a resolution which shall define:

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

Article 62-68

[Repealed]

Article 69

1. The President of the Office may, upon a request or on an *ex officio* basis, and by way of a resolution, limit to an extent indispensable the right to have access to evidence being attached to the case files, in the case that rendering such evidence accessible would entail a risk that the business secret, or any other secrets being liable to protection under the relevant separate provisions, may be revealed.

2. The restriction referred to in paragraph 1 shall also apply to evidence included in the proceedings pursuant to Article 73 paragraph 5.

3. The resolution issued pursuant to paragraph 1 shall be subject to a complaint.

4. The party filing a request for a limited right of access to evidence shall also submit to the President of the Office a version of the document that does not comprise any information subject to a limitation referred to in paragraph 1, as furnished with a relevant annotation.

5. A version of the document not comprising any information being liable to a limitation referred to in paragraph 1 shall be rendered accessible to the parties concerned, as furnished with a relevant annotation.

Article 70

1. Any information and evidence received by the President of the Office under the procedure of Article 109, including information on the undertaking's request for renouncement from imposing a fine or reducing thereof (leniency), shall not be rendered accessible, subject to paragraphs 2 and 3.

2. The President of the Office shall provide the parties concerned with access to information and evidence referred to in paragraph 1, prior to issuing a decision.

3. The provision of paragraph 1 shall not apply in the event the undertaking moving for leniency agrees in writing to render the information and evidence referred to in paragraph 1 accessible.

Article 71

1. The employees of the Office shall protect company secrets as well as other information, protected subject to other applicable regulations, that they may have acquired during proceedings.
2. The provision of Article 71, paragraph 1 does not apply to publicly available information, information on initiating proceedings and information on decisions closing such proceedings and the content thereof.
3. The provisions of Article 71, paragraphs 1 and 2 shall apply also to the employees of Trade Inspection and other persons involved in the inspections referred to in Article 105a paragraph 2.

Article 72

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

Article 73

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

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

Article 74

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

Article 75

1. The President of the Office shall discontinue proceedings, by way of a resolution, in the event that:

- 1) the notification on intended concentration of undertakings has been withdrawn;
- 2) the fine referred to in Article 106, paragraph 2, and Articles 107 and 108, has not been imposed;
- 3) the case has been taken over by the European Commission under the relevant provisions of the Community law.

2. The President of the Office may, by way of a resolution, discontinue proceedings if the case concerned has been resolved by a competent competition authority of a Member State of the European Union.

Article 76

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

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

Article 77

1. If the proceedings result in the assessment by the President of the Office that the provisions of the Act have been infringed, the undertaking which has committed this infringement shall be obliged to bear the costs of the proceedings.

2. In the cases particularly justified the President of the Office may impose upon a party the obligation to reimburse only part of the expenses or desist from charging costs.

Article 78

Regardless of the result of the proceedings, the President of the Office may impose upon a party the obligation to reimburse expenses due to its unreliable or clearly unfair behaviour, in particular costs resulting from avoidance to give explanation or submitting untruthful explanation, concealment or delayed presentation of the evidence.

Article 79

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

Article 80

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

Article 81

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

Article 82

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

Article 83

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

Article 84

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

Article 85

The provisions of this chapter shall apply accordingly to the cases regarding imposition of fines for infringement of provisions laid down in the Act.

Chapter 2

Antimonopoly proceedings concerning competition-restricting practices

Article 86

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

Article 87

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

Article 88

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

Article 89

1. If, in the course of antimonopoly proceedings, it has been rendered plausible that any further application of the practice being objected against may cause serious and hard-to-remove threats to competition, the President of the Office may, prior to the conclusion of the antimonopoly proceedings, and by way of a decision, impose on the undertaking being alleged to be using a given practice, an obligation to omit acting in a certain manner, in order to prevent those threats. Lodging of an appeal shall not stay execution of the said decision. Prior to issuing the decision, no right shall be vested in the party concerned to express itself as to the evidence and materials gathered, or demands submitted, as referred to in Article 10 of the Act of 14 June 1960 – the Code of Administrative Procedure.

2. In the decision referred to in paragraph 1, the President of the Office shall determine the period for which it is due to be binding. The decision shall be binding for no longer than until a decision is issued concluding the proceedings regarding the case.

3. The President of the Office may extend, by way of a decision, the validity period of the decision referred to in paragraph 1. The provision of paragraph 2, the second sentence, shall apply accordingly.

4. In the event that a decision is issued, as referred to in paragraph 1, Article 106, paragraph 1, subparagraphs 1 and 2 shall not apply.

Article 90

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

Article 91

1. If there are grounds to suppose that any objects, files, books, documents and other data carriers within the meaning of the regulations on informatisation of operations of entities performing public tasks are stored in residential premises or any other premises, building or means of transportation and such storage may affect the findings which are material to pending proceedings, the Court of Competition and Consumer Protection, upon the request of the President of the Office, may consent to perform a search in such premises by the Police, including seizure of objects that may be used as evidence in the proceedings. The provisions of Article 105c, paragraphs 2 to 4 shall apply accordingly.

2. The search referred to in paragraph 1 shall be also attended by an authorised employee of the Office and other persons referred to in Article 105a, paragraph 2.

3. On instruction of the Court of Competition and Consumer Protection, the police shall perform the actions referred to in paragraph 1.

Article 92

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

Article 93

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

Chapter 3

Antimonopoly proceedings concerning concentration

Article 94

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

Article 95

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

eliminate the indicated errors or supplement necessary information, in the appointed time limit.

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

Article 96

1. The antimonopoly proceedings in concentration cases should be terminated not later than within 2 months from their institution.

2. In the event that the undertaking has presented the conditions determined in Article 19, paragraph 2, the final date referred to in paragraph 1 shall be extended by additional 14 days.

3. The time limits as established in paragraphs 1 and 2, do not include the time periods of waiting for a notification from other participants of the concentration, or the time periods necessary to eliminate errors or supplement necessary information, as referred to in Article 95, paragraph 1, subparagraph 3, or to respond to the measures proposed by the President of the Office, referred to in Article 19, paragraph 2, as well as the time period of waiting until the fee is paid, as referred to in Article 94, paragraph 4.

Article 97

1. The undertakings whose intention of concentration is subject to a notification shall be under obligation to refrain from implementing the concentration until the issuance of the decision by the President of the Office or the lapse of the time limit in which such a decision should be issued.

2. The legal action pursuant to which the concentration is to be implemented may be performed under condition of the issuance by the President of the Office, by way of a decision, of the approval for implementing the concentration, or after the lapse of the time limit referred to in Article 96.

Article 98

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

Article 99

In the case of non-compliance with the decision referred to in Article 21, paragraph 1 or 4, the President of the Office may, by way of a decision, accomplish a division of the undertaking. To the division of a company, the provisions of Articles 528 to 550 of the Act of 15 September 2000 – the Code of Commercial Partnerships and Companies (Journal of Laws No. 94, item 1037, as amended⁹) shall apply accordingly. The President of the Office has the competence of the bodies of companies participating in the division. Moreover, the President of the Office may apply to the court for the annulment of the agreement or for undertaking other legal means aimed at restoring the previous status.

Chapter 4

Proceedings concerning practices violating collective consumer interests

Article 100

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

Article 101

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

Article 102

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

Article 103

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

Article 104

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

Article 105

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

⁹ Amendments to the aforementioned Act are published in Journal of Laws of 2001 No. 102, item 1117; of 2003 No. 49, item 408, No. 229, item 2276; of 2005 No. 132, item 1108, No. 183, item 1538 and No. 184, item 1539; and of 2006, No. 133, item, 935 and 208, item 1540.

Chapter 5

Inspection in the course of proceedings before the President of the Office

Article 105a.

1. During proceedings before the President of the Office, an inspection may be held at each undertaking involved, hereinafter referred to as the “inspected party”, with reference to the proceedings; such inspection shall be performed by an authorised employee of the Office or Trade Inspection, hereinafter referred to as the “inspecting party”.
2. The President of the Office may authorise the following persons to participate in the inspection:
 - 1) an employee of a competition protection authority of a Member State, referred to in Article 22 of Regulation No. 1/2003/EC;
 - 2) an employee of the applicant authority within the meaning Article 3, subparagraph f of Regulation No. 2006/2004/WE in instances referred to in Article 6, paragraph 3 thereof;
 - 3) persons holding specific information if such information is required to perform the inspection.
3. With respect to matters falling within the competencies of branch offices or with respect to matters entrusted to branch offices by the President of the Office pursuant to Article 33, paragraphs 4 and 5, the employees of the branch offices shall perform inspections on the basis of authority of the director of the branch offices issued on behalf of the President of the Office.
4. The authority to perform inspection shall specify:
 - 1) identification of the inspecting authority;
 - 2) providing the legal basis;
 - 3) date and place of issue;
 - 4) first and last name and position of the inspecting person and number of his/her official ID; if persons referred to in paragraph 2 are authorised to participate in the inspection – first and last names of such persons, number of their passport or another ID document;
 - 5) identification of the inspected party;
 - 6) identification of the subject and scope of inspection;
 - 7) identification of commencement date of the inspection and the anticipated completion date thereof;
 - 8) signature of the authorising person with details of his/her position or function;
 - 9) instruction of the rights and obligations of the inspected entity.
5. The authority to perform inspection, referred to in paragraph 1 may be issued by the President of the Office as well as voivodeship inspectors of the Trade Inspection upon the proposal of the Chief Inspector of the Trade Inspection.
6. The inspecting persons shall deliver the authority to hold the inspection to the inspected party or the person authorized thereof and present their official IDs whereas the persons authorised to participate in the inspection, referred to in paragraph 3 – their ID cards, passport or other document confirming their identity.
7. If the inspected party or persons authorised thereby are absent, the authority to perform the inspection or official IDs, ID cards, passport or other documents confirming the identity shall be presented to another employee of the inspected party who may be recognised to be the person referred to in Article 97 of the Act of 23 April 1964 – Civil Code, or to a witness who shall be a public official while not being an employee of the inspecting authority. In such circumstances, the

authority shall be delivered to the inspected party without delay, however not later than on the third day from initiating the inspection.

Article 105b.

1. The inspecting persons shall be authorised to:

- 1) access the site and the buildings, other premises and means of transportation held by the inspected party;
- 2) request presentation of files, books, all kinds of documents and data carriers related to the subject of the inspection as well as true copies and extracts thereof and to make notes of their content;
- 3) request the persons referred to in Article 105d, paragraph 1 to provide oral explanations on the subject of the inspection.

2. Persons authorized to participate in inspections pursuant to Article 105a, paragraph 2 shall hold the same authority as the inspecting person with respect to access to the site and the buildings, other premises and means of transportation held by the inspected party and access to files, books, all kinds of documents and data carriers related to the subject of the inspection as well as true copies and extracts thereof and to make notes of their content as well as shall be entitled to participate jointly with the inspecting person in the search referred to in Article 91 and 105c.

3. During the inspection, the inspecting party may be assisted by functionaries of other State inspection authorities or the Police. State inspection authorities and the Police shall perform operations on instructions of the inspecting person.

4. In justified instances, the proceedings of inspections or any specific operations thereof may be recorded with video and audio equipment subject to the prior notification thereof to the inspected party. Electronic data carriers within the meaning of the regulations on informatisation of operations of entities carrying out public tasks, on which the proceedings of inspections or any specific operations thereof have been registered, shall be attached to the inspection protocol.

Article 105c.

1. During the inspection, the inspecting persons may search the premises or objects subject to the consent of the court of competition and consumer protection, provided upon the request of the President of the Office.

2. If there is a justified suspicion of a serious breach of the Act, in particular when evidence could be obliterated, the request referred to in paragraph 1 may be filed by the President of the Office before antimonopoly proceedings are initiated.

3. The court of competition and consumer protection shall issue its decision with respect to the matter referred to in paragraph 1 within 48 hours. Decisions of the court of competition and consumer protection may not be appealed.

4. In all matters not provided for in the Act, the provisions of the Act of 6 June 1997 – Criminal Procedure Code relating to search shall apply accordingly.

Article 105d.

1. The inspected party, the person authorised thereby, the holder of apartments, premises, buildings or means of transportation referred to in Article 91, paragraph 1 shall be obliged to:

- 1) provide the requested information;
- 2) provide access to the site and buildings or other premises and means of transportation;

3) provide access to files, books and all kinds of documents or other data carriers.

2. The persons referred to in paragraph 1 may refuse to provide information or collaborate only when that could lead to criminal responsibility for themselves or their spouses, ascendants, descendants, brothers and sisters as well as relatives in the same line or degree and co-habiting persons as well as persons who have been adopted, stay under the guardianship or care thereof. Such right to refuse information or collaboration shall survive the marriage or the relationship of adoption, guardianship or care.

Article 105e.

1. The inspected party shall provide the inspecting persons and other persons authorised to participate in the inspection with conditions and facilities required for efficient performance of the inspection, in particular the inspected party shall:

- 1) make copies of documents, including printouts from data carriers requested by the inspecting persons;
- 2) provide if possible a lockable separate room if this is required to perform the inspection;
- 3) provide a separate place to store documents and secured objects;
- 4) provide available means of telecommunications to the extent required to perform the inspection.

2. The inspected party shall certify the copies of documents and printouts for compliance with original. If this is refused, the documents shall be certified by the inspecting persons with a record in the inspection protocol.

Article 105f.

1. The inspecting persons or the persons authorised to participate in the inspection shall ascertain facts on the basis of evidence collected during the inspection, in particular documents, objects, site inspections as well as oral or written explanations and statements and other data carriers.

2. The evidence referred to in paragraph 1 may be secured by way of:

- 1) storing such evidence in a separate, locked and sealed premises with the inspected party;
- 2) deposit against receipt to the inspecting persons in the premises of the Office or a voivodeship branch of Trade Inspection.

Article 105g.

1. During the inspection referred to in Article 105a, paragraph 1, the President of the Office may issue a decision on seizing files, books, all kinds of documents or data carriers within the meaning of the regulations on informatisation of operations of entities carrying out public tasks and of other entities that may be used as evidence in the matter, for the duration of the inspection, however not longer than 7 days.

2. The person holding the objects referred to in paragraph 1 shall be requested by the inspecting persons to deliver the objects voluntarily and if this is refused, the objects may be seized pursuant to the regulations on enforcement procedure in administration.

3. The decision on seizing the objects may be appealed by persons whose rights have been violated. The appeal, if any, does not stop the enforcement of the decision.

4. The provisions of paragraphs 1 to 3 do not apply to the securing at the inspection site, with the purpose of performing inspection operations, of files, books, all other documents or data carriers and other objects that may be used as evidence in the matter and to the premises of the inspected

entity where the documents or objects are stored.

Article 105h.

1. The objects that are subject to the seizure referred to in Article 105g, paragraph 1, released, seized or found during the inspection, after visual inspection and drafting a seizure protocol, shall be taken away or left on deposit with a trustworthy person with an obligation to deliver them upon each request of the authority carrying out the proceedings.
2. The seizure protocol shall identify the case to which the seizure of objects or search is related, and the exact time of commencing and closing the operations, the precise list of seized objects and, to the extent required a description thereof as well as reference to the decision of the President of the Office on the seizure. The protocol shall be signed by the person performing the seizure and a representative of the inspected party.
3. The person seizing the objects referred to in paragraph 1 shall be obliged to deliver to the interest parties a receipt specifying the objects that were seized and by whom and to notify without delay the undertaking whose objects were seized.
4. The seized objects shall be returned as soon as they are found unnecessary to the carried out proceedings or by annulling by the court of competition and consumer protection of the decision to seize such objects, however not later than after expiry of the period referred to in Article 105g, paragraph 1.

Article 105i.

Without initiating separate proceedings, the President of the Office may carry out an inspection, including a search pursuant to Article 91 or Article 105c:

- 1) upon the request of the European Commission if the undertaking or a person authorised to represent the undertaking or holder of apartments, premises, buildings or means of transportation referred to in Article 91, paragraph 1, object to holding an inspection by the European Commission during proceedings held pursuant to the provisions of Regulation No. 1/2003/EC or Regulation No. 139/2004/EC;
- 2) upon the request of the European Commission or the competition authority of a Member State in the situation specified in Article 22 of Regulation No. 1/2003/EC or Article 12 of Regulation No. 139/2004/EC.

Article 105j

1. The operations performed during the inspection shall be recorded by the inspecting persons in an inspection protocol.
2. The inspection protocol shall specify in particular:
 - 1) identification of the name or first and last name and address of the inspected party;
 - 2) date of commencement and end of the inspection;
 - 3) first and last name and position of the inspecting persons;
 - 4) identification of the subject and scope of inspection;
 - 5) description of facts ascertained during the inspection;
 - 6) description of attachments;
 - 7) instruction given to the inspected party on their rights to make reservations to the protocol and a right to refuse to sign the protocol.
3. The evidence collected during the inspection shall be attached to the inspection protocol.

Article 105k

1. The inspection protocol shall be signed by the inspecting person and the inspected party.
2. Being presented the protocol within 7 days prior to the signature thereof, the inspected party may submit written reservations to the protocol.
3. If reservations referred to in paragraph 2 are submitted, the inspecting person shall make an analysis thereof and, if required, take additional inspection actions; if the reservations are found justified, the inspecting person shall amend or make additions to the relevant part of the protocol in the form of an annex to the protocol.
4. If the reservations are not found to be justified in whole or in part, the inspecting person shall notify the inspected party thereof in writing.
5. Refusal to sign the protocol shall be mentioned in the protocol by the inspecting person.
6. The protocol shall be made in two counterparts one of which shall be delivered to the inspected party with the exception of the evidence kept by the inspecting person.

Article 105l

Inspection of business operations of an undertaking shall be subject to the provisions of chapter 5 of the Act of 2 July 2004 on freedom of business operations (Journal of Laws of 2007, No. 155, item 1095, as amended¹⁰).

¹⁰ The amendments to the uniform text of the mentioned Act were published in Journal of Laws of 2007 No. 180, item 1280; of 2008 No. 70, item 416, No. 116 item 732, No. 141, item 888, No. 171, item 1056, No. 216, item 1367; of 2009 No. 3, item 11, No. 18, item 97.

Title VII Fines

Article 106

1. The President of the Office may impose upon the undertaking, by way of a decision, a maximum fine of 10% of the revenue earned in the accounting year preceding the year within which the fine is imposed, if the undertaking, even if unintentionally:

- 1) has committed an infringement of the ban determined in Article 6, as regards the nonexcluded scope under Articles 7 and 8, or an infringement of the ban determined in Article 9;
- 2) has committed an infringement of Article 81 or Article 82 of the EC Treaty;
- 3) has implemented a concentration without a consent of the President of the Office;
- 4) has committed the application of a practise violating collective consumer interests within the meaning of Article 24.

2. The President of the Office may further impose by way of a decision a fine of the equivalent of EUR 50 000 000 on an undertaking if the undertaking, even unintentionally:

- 1) provided incorrect data in the application referred to in Article 23 or in the notification referred to in Article 94, paragraph 2;
- 2) failed to provide information requested by the President of the Office pursuant to Article 12, paragraph 3, Article 19, paragraph 3 or Article 50 or provided incorrect or misleading information;
- 3) does not collaborate during the inspection performed within proceedings pursuant to Article 105a subject to Article 105d, paragraph 2.

3. In the case the undertaking was created by way of merger or transformation of other undertakings, when calculating the revenue referred to in paragraph 1, the revenue gained by these undertakings in the accounting year preceding the year when the fine was imposed should be taken into account.

4. In the case the undertaking failed to obtain the revenue in the accounting year preceding the year when the fine was imposed, the President of the Office may establish the fine in the equivalent of two hundred-fold the average remuneration.

Article 107

The President of the Office may impose by way of a decision a fine of equivalent of up to EUR 10,000 on an undertaking for each day of delay in execution of the decisions issued pursuant to Article 10, Article 12, paragraph 1, Article 19, paragraph 1, Article 20, paragraph 1, Article 21, paragraphs 2 and 4, Article 26, Article 28, paragraph 1 and Article 89, paragraphs 1 and 3, decisions issued pursuant to Article 105g, paragraph 1 or court judgements in cases concerning competition-restricting practices, practices violating collective interests of consumers and concentration; the fine shall be imposed as of the date specified in the decision.

Article 108

1. The President of the Office may, by way of a decision, impose on a person holding a managerial post or being a member of a managing authority of the undertaking, a maximum fine of fifty-fold the average remuneration, should such a person, intentionally or unintentionally, have not:

- 1) executed any of the decisions, resolutions or judgements referred to in Article 107;
- 2) notified an intention of concentration referred to in Article 13;
- 3) provided information, or have provided unreliable or misleading information, as required by the President of the Office pursuant to Article 50.

2. The President of the Office may impose the fine referred to in Article paragraph 1 on:

1) persons authorised by the inspected party referred to in Article 105a, paragraph 6, holders of apartments, premises, buildings or means of transportation referred to in Article 91, paragraph 1 and the persons referred to in Article 105a, paragraph 7 for:

- a) failure to provide information or providing incorrect or misleading information requested by the President of the Office,
- b) failure to collaborate during an inspection held within proceedings pursuant to Article 105a;

2) witnesses for refusal to make testimony without valid reason.

Article 109

1. Subject to paragraph 4, the President of the Office shall refrain from imposing a fine referred to in Article 106, paragraph 1, subparagraphs 1 or 2, upon an undertaking taking part in an agreement referred to in Article 6, paragraph 1 or Article 81 of the EC Treaty, should this undertaking have jointly fulfilled the following conditions:

1) it has been the first, amongst the participants of the agreement, to:

- a) provide the President of the Office with information concerning the existence of such a prohibited agreement, as may suffice for instituting antimonopoly proceedings, or
- b) present to the President of the Office, upon its own initiative, a proof rendering it possible to issue a decision referred to in Article 10 or 11

- providing that the President of the Office did not have at that time any information or pieces of evidence proving sufficient for instituting antimonopoly proceedings or issuing a decision referred to in Article 10 or 11;

2) it is fully co-operating with the President of the Office in the course of the proceedings, providing him with any and all proofs or pieces of evidence that it has at its disposal, or the ones it may have at its disposal, and promptly giving any information relating to the case, upon its own initiative or upon demand of the President of the Office,

3) it has ceased participating in the agreement not later than as of the day on which it notified the President of the Office, the existence of an agreement or presented evidence referred to in subparagraph 1, point b;

4) it was not the initiator of the agreement and did not induce other undertakings to participate in the agreement.

2. In the event that an undertaking participating in an agreement referred to in Article 6, paragraph 1 or in Article 81 of the EC Treaty, appears not to be meeting the conditions referred to in paragraph 1, then the President of the Office shall decrease the fine referred to in Article 106, paragraph 1, subparagraph 1 or 2, being imposed on that undertaking, should the latter have jointly fulfilled the following conditions:

1) it has presented to the President of the Office, upon his own initiative, evidence which to an essential extent will contribute to issuing a decision referred to in Article 10 or 11;

2) it has ceased participating in the agreement not later than as of the day on which it presented the evidence referred to in subparagraph 1.

3. In the case referred to in paragraph 2, subject to Article 110, the President of the Office shall impose a fine:

1) being not in excess of 5% of the revenue earned in the accounting year preceding the year within which the fine is imposed – upon the undertaking which has first met the conditions referred to in paragraph 2;

2) being not in excess of 7% of the revenue earned in the accounting year preceding the year within which the fine is imposed – upon the undertaking proving to be the second to have met the conditions referred to in paragraph 2;

3) being not in excess of 8% of the revenue earned in the accounting year preceding the year within which the fine is imposed – upon other undertakings which have met the conditions referred to in paragraph 2.

4. In case that an undertaking has fulfilled the conditions determined in paragraph 1, subparagraph 1, point b and subparagraphs 2 to 4, the President of the Office shall impose a fine in the amount as determined in paragraph 3, subparagraph 1, provided that another undertaking participating in the agreement had prior thereto met the conditions determined in paragraph 1, subparagraph 1, point a and subparagraphs 2 to 4.

5. The Council of Ministers shall determine, by way of a regulation, the procedure to be followed in the event when undertakings have applied for renouncement or reduction of a fine, including in particular:

1) the method of accepting and considering undertakings' requests for renouncement or reduction of a fine,

2) the method of notifying the undertakings of the position assumed by the President of the Office

- having regard to a necessity for ensuring the option for producing a reliable assessment of whether the undertakings have fulfilled the conditions referred to in paragraphs 1 and 2, and for classifying the requests appropriately.

Article 110

1. In case whereby an undertaking has been established by way of merging or transformation of other undertakings, when calculating its turnover, as referred to in Article 109 paragraph 3, the revenue earned by such undertakings in the accounting year preceding the year within which the fine is imposed, shall be considered.

2. In case whereby an undertaking has not gained any revenue in the accounting year preceding the year within which the fine is imposed, the President of the Office may impose a fine amounting up to:

1) fifty-fold the average remuneration, imposed on the undertaking which has first met the conditions, referred to in Article 109, paragraph 2;

2) seventy-fold the average remuneration, imposed on the undertaking which has second met the conditions, referred to in Article 109, paragraph 2;

3) eighty-fold the average remuneration, imposed on other undertakings which have met the conditions, referred to in Article 109, paragraph 2.

Article 111

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

Article 112

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

Article 113

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

Title VIII Penal provision

Article 114

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

Title IX Amending, transitional and final provisions

Article 115

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

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

Article 116.

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

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

Article 117

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

Article 118

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

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

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

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

¹¹ Amendments to the aforementioned Act are published in Journal of Laws of 1965 No. 15, item 113; of 1974 No. 27, item 157 and No. 39, item 231; of 1975, No. 45, item 234; of 1982 No. 11, item 82 and No. 30, item 210; of 1983 No. 5, item 33; of 1984 No. 45, item 241 and 242; of 1985 No. 20, item 86; of 1987 No. 21, item 123; of 1988 No. 41, item 324; of 1989 No. 4, item 21 and No. 33, item 175; of 1990 No. 14, item 88, No. 34, item 198, No. 53, item 306, No. 55, item 318 and No. 79, item 464; of 1991 No. 7, item 24, No. 22, item 92, No. 115, item 496; of 1993 No. 12, item 53; of 1994 No. 105, item 509; of 1995 No. 83, item 417; of 1996 No. 24, item 110, No. 43, item 189, No. 73, item 350 and No. 149, item 703; of 1997 No. 43, item 270, No. 54, item 348, No. 75, item 471, No. 102, item 643, No. 117, item 752, No. 121, item 769 and 770, No. 133, item 882, No. 139, item 934, No. 140, item 940 and No. 141, item 944; of 1998 No. 106, item 668 and No. 117, item 757; of 1999 No. 52, item 532; of 2000 No. 22, item 269 and 271, No. 48, item 552 and 554, No. 55, item 665, No. 73, item 852 and No. 94, item 1037, No. 114, item 1191 and 1193 and No. 122, item 1314, 1319 and 1322; of 2001 No. 4, item 27, No. 49, item 508, No. 63, item 635, No. 98, item 1069, 1070 and 1071, No. 123, item 1353, No. 125, item 1368 and No. 138, item 1546; of 2002 No. 25, item 253, No. 26, item 265, No. 74, item 676, No. 84, item 764, No. 126, item 1069 and 1070, No. 129, item 1102, No. 153, item 1271, No. 219, item 1849 and No. 240, item 2058; of 2003 No. 41, item 360, No. 42, item 363, No. 60, item 535, No. 109, item 1035, No. 119, item 1121, No. 130, item 1188, No. 139, item 1323, No. 199, item 1939 and No. 228, item 2255; of 2004 No. 9, item 75, No. 11, item 101, No. 68, item 623, No. 91, item 871, No. 93, item 891, No. 121, item 1264, No. 162, item 1691, No. 169, item 1783, No. 172, item 1804, No. 204, item 2091, No. 210, item 2135, No. 236, item 2356 and No. 237, item 2384; of 2005 No. 13, item 98, No. 22, item 185, No. 86, item 732, No. 122, item 1024, No. 143, item 1199, No. 150, item 1239, No. 167, item 1398, No. 169, item 1413 and 1417, No. 172, item 1438, No. 178, item 1478, No. 183, item 1538, No. 264, item 2205 and No. 267, item 2258; of 2006 No. 12, item 66, No. 66, item 466, No. 104, item 708 and 711, No. 186, item 1379, No. 208, item 1537 and 1540, No. 226, item 1656 and No. 235, item 1699; and of 2007 No. 7, item 58 and No. 47, item 319.

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

Article 119

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

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

Article 120

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

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

Article 121

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

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

Article 122

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

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

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

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

Article 123

The Act of 3 July 2002 – the Aviation Law (Journal of Laws of 2006 No. 100, item 696 as amended¹⁷⁾) is hereby amended as follows:

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

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

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

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

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

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

Article 124

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

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

Article 125

In the Act of 22 May 2003 on Insurance Activity (Journal of Laws No. 124, item 1151, as amended¹⁸⁾) in Article 19, paragraph 2, subparagraph 9 shall be replaced by the following:

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

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

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

¹⁷ Amendments to the consolidated text of the aforementioned Act are published in Journal of Laws of 2006 No. 104, item 708 and 711, No. 141, item 1008, No. 170, item 1217 and No. 249, item 1829.

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

Article 126

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

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

“3. The provisions of the Act do not infringe the provisions on competition and consumer protection or the provisions of the Act of 29 December 1992 on radio and television broadcasting (Journal of Laws of 2004 No. 253, item 2531, as amended²⁰).”;

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

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

Article 127

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

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

Article 128

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

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

¹⁸ Amendments to the aforementioned Act are published in Journal of Laws of 2004 No. 91, item 870 and No. 96, item 959; of 2005 No. 48, item 447, No. 83, item 719, No. 143, item 1204, No. 167, item 1396, No. 183, item 1538 and No. 184, item 1539, and of 2006 No. 157, item 1119.

¹⁹ Amendments to the aforementioned Act are published in Journal of Laws of 2004 No. 273, item 2703; of 2005 No. 163, item 1362 and No. 267, item 2258; and of 2006 No. 12, item 66, No. 104, item 708 and 711, No. 170, item 1217, No. 220, item 1600, No. 235, item 1700 and No. 249, item 1834; and of 2007 No. 23, item 137.

²⁰ Amendments to the consolidated text of the aforementioned Act are published in Journal of Laws of 2005 No. 17, item 141, No. 85, item 728 and No. 267, item 2258; and of 2006, No. 51, item 377, No. 83, item 574 and No. 133, item 935; and of 2007 No. 25, item 162.

Article 129

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

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

Article 130

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

Article 131

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

Article 132

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

Article 133

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

Article 134

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

Article 135

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

Article 136

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

Article 137

The Act of 15 December 2000 on competition and consumer protection shall expire (Journal of Laws of 2005, No. 244, item 2080; of 2006, No. 157, item 1119, No. 170, item 1217, and No. 249, item 1834).

Article 138

The Act shall enter into force after the lapse of 30 days from its publication.
President of the Republic of Poland
Lech Kaczyński