



## Overview

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The Anti-Monopoly Committee of Ukraine (AMC) is a state body with special status. Its role is the state protection of competition in business activity. The AMC is controlled by the president of Ukraine and reports on its activity to parliament.

The AMC consists of a chairman and 10 state commissioners, of whom two are first vice chairmen and three vice chairmen. One of the state commissioners is also the head of Kiev regional department. There are 27 regional departments.

The chairman of the AMC is appointed and dismissed by the president of Ukraine with the consent of parliament. State commissioners are appointed and dismissed by the president of Ukraine on the basis of a submission by the Cabinet of Ministers. The chairman's term of service is seven years. The same person can be appointed for no more than two consecutive terms.

The main tasks of the AMC are:

- the control of compliance with legislation on the protection of economic competition on the basis of the parity of all business entities and the priority of customers' rights, and the prevention and termination of violations in this field;
- the control of concentrations and concerted practices, and the regulation of the prices (tariffs) of goods or services provided by natural monopolies; and
- the promotion of fair competition.

### Mergers and concerted practices control

Under the Competition Act 2001 concentrations of undertakings require prior approval of the AMC if the stipulated thresholds are exceeded. If the AMC refuses a permit for a concentration, the parties may appeal to the Cabinet of Ministers, which is entitled to grant the permit in exceptional cases.

Filing is also mandatory for concerted practices, with some exceptions; eg, filing is not mandatory for any voluntary concerted practices of small or medium-sized businesses (whose turnover or total asset value does not exceed €500,000) regarding the joint purchase of goods that does not cause a substantial limitation of competition on the

market.

All participants to concentration and concerted practices are responsible for filing.

Ukrainian competition legislation applies to any mergers that affect or could affect economic competition in Ukraine. Hence foreign-to-foreign mergers are caught if they meet the stipulated thresholds.

Notification fees are as follows:

- for approval of concentration: 5,100 Ukrainian hryvnias (about €690); and
- for approval of concerted practices: 2,550 Ukrainian hryvnias (about €345).

Parties may also request a preliminary opinion from the AMC on whether its approval is required for a particular concerted practices or concentration. The fee for this is 1,360 Ukrainian hryvnias (about €183).

Reviewing periods are as follows:

- approval of concerted practices: three months plus 15 days. In difficult cases the AMC may extend this term by a further three months;
- approval of concentration: one month plus 15 days. This term may also be extended by the AMC by a further three months; and
- preliminary opinion: one month.

### Violations and responsibility

Under Ukrainian legislation, the following acts are prohibited as violations of the competition rules:

- anti-competitive concerted practices; some may be allowed if the prior consent of the AMC is given;
- concentration without permission of the AMC (provided that the stipulated thresholds are exceeded);
- abuse of a dominant position;
- anti-competitive acts by state bodies;
- misuse of another business's trademark, markings, advertising material, packaging or product;
- copying the appearance of another business's product;
- comparative advertisements (unless they contain truthful information about the other

- business's goods and services which could be useful to consumers);
- placing obstacles in the way of other businesses engaged in competition or establishing an unfair competitive advantage, eg, through damaging another business's reputation, boycott, bribery of employees, etc; and
  - illegal acquisition, disclosure or use of commercial secrets.

The AMC can impose fines for violations of the competition rules. The amount varies depending on the nature of the violation, its effect on the market and certain other factors (such as repeated

violations, refusal to cooperate with the AMC, market position, benefit derived from breaching the law, etc). Performance of the anticompetitive acts, abuse of a dominant position and failure to observe a decision of the AMC can result in fines of up to 10 per cent of global turnover for the previous year, or, if such turnover cannot be calculated, up to 340,000 Ukrainian hryvnias (about €45,945). Concentration without the prior approval of the AMC where such prior approval is mandatory can result in fines of up to 5 per cent of global turnover for the previous year, or, if such turnover cannot be calculated, up to 170,000 Ukrainian hryvnias (about €22,970).

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Konnov & Sozanovsky has:

- 16 years of practice, experience and success;
- more than 1000 clients around the world;
- five offices; and
- 50 lawyers.

Konnov & Sozanovsky is a leading Ukrainian law firm with offices in Kiev (head office), Chernovtsy (Ukraine), Moscow, Nicosia and representative office in London.

Founded in 1992, Konnov & Sozanovsky is ranked in the top 10 Ukrainian law firms by 'Yuridicheskaya Praktika' (Ukraine) 1997 to 2007 Annual Surveys.

With extensive knowledge of Ukrainian and international law, as well as a thorough understanding of business in Ukraine, our company is able to meet needs of corporate clients, both domestic and foreign, in every area of law. We are particularly known for our experience in the following practice areas: commercial law; competition law; copyright and media law; corporate law; intellectual property; real estate, construction and land law; representation in courts; securities and financial institutions; and tax law.

Our practice includes providing of legal assistance to clients in various sectors of economy, in particular: banking, veterinary science, publishing, investments/equity market, light industry, media and telecommunications, real estate, food industry, privatization, computer programs, advertising/design, agricultural industry, insurance, construction, tobacco and spirits, trade and distribution, pharmaceuticals, energy and power.

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