

# Salans News Competition Law



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1. Amendments to certain legislative acts of Ukraine with respect to the delineation of powers of public authorities in the spheres of natural monopolies and the telecommunications industry

The President of Ukraine signed Law of Ukraine No. 4910-VI “On amendments to certain legislative acts of Ukraine with respect to delineation of powers of public authorities in the spheres of natural monopolies and the telecommunications industry”.

In particular, this Law introduces amendments to the Laws of Ukraine “On the Antimonopoly Committee of Ukraine”, “On Telecommunications”, “On Natural Monopolies” and to the Code of Ukraine on Administrative Violations.



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The Law clearly delineates powers of the Antimonopoly Committee and agencies regulating natural monopolies with respect to determination of the legal status of business entities in specified markets in order to provide their effective regulation.

## 2. Amendments to certain legislative acts of Ukraine with respect to public procurement

Law of Ukraine 5044-VI “On amendments to certain legislative acts of Ukraine with respect to public procurement” was adopted on 4 July 2012. In particular, it introduces amendments to the Law of Ukraine “On Public Procurement” (the “Law”) and changes the application of the Law. Specifically, amendments introduced to the Law stipulate that the Law applies to the procurements by enterprises specified in clause 21 part 1 Article 1 of the Law only if procurements are made using public funds defined in clause 4 part 1 Article 1 of the Law.

The Law also lists cases of procurement which are not subject to the Law and introduces changes to the definition of cases when the procurement from one participant is cancelled by the purchaser.

## 3. The Antimonopoly Committee of Ukraine and the National Commission for the State Regulation of Communications and Informatisation signed a joint order with respect to establishing a working group

The Antimonopoly Committee of Ukraine (AMC) and the National Commission for the State Regulation of Communications and Informatisation (NCSRCI) signed a joint order with respect to establishing a working group. Priority tasks of this group include developing general coordinated proposals for definition of effectiveness of institutional bases for regulation on telecommunication markets. In

addition, the Chairmen of the AMC of Ukraine and the NCRCI agreed to cooperate in investigations conducted by the AMC of Ukraine on the market of mobile communications.

#### 4. The Antimonopoly Committee of Ukraine levied record fines for the violation of the law of Ukraine on Economic Competition Protection

14 enterprises, all members of the Association “Mebliderevprom”, which participated in specialised auctions for sale of unfinished wood in 2011, were held responsible for anti-competition concerted actions by the Antimonopoly Committee of Ukraine. The AMC believes that these enterprises agreed among themselves on the preliminary distribution of lots, which resulted in distortion of the results of tenders.

Maximum fines were imposed on the majority of the enterprises (amounting to 10% of their annual revenue) accused of anti-competition concerted actions by the AMC. Namely: a 164 million hryvnias fine – on the LLC “Krono – Ukraine”, a 89 million hryvnias fine was imposed on the LLC “Kronospan UA”, a 77 million hryvnias fine – on the LLC “Svyspan Limited”, a 49 million hryvnias fine – on the LLC “LK Interplyt Nadvirna”, a 15 million hryvnias fine – on the Private JSC “Fanplyt”, a 13 million hryvnias fine – on the PJSC “Avers”, a 6 million hryvnias fine – on the LLC “Olisma”, a 1 million hryvnias fine – on the LLC “Kalynivskiy EZDM”, a 971 thousand hryvnias fine – on the Private JSC “Shepetivskiy DOK”, a 488 thousand hryvnias fine – on the LLC “DOK Shepetivka”, a 764 thousand hryvnias fine – on the LLC “Meblevyi ray”, a 3 thousand hryvnias fine – on the Association “Mebliderevprom”. A 30 thousand hryvnias fine was imposed on each of some of the enterprises which admitted their fault. The fines amounted to an aggregate of 419 million hryvnias, which is a historic record in Ukrainian competition law.

Most all of the enterprises on which a maximum fine was imposed applied to the court to appeal the AMC decision.

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