

Annual Report 2022



CONSEIL DE LA
CONCURRENCE

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Foreword of the President

Competition is not just any principle but, as Ludwig Erhard once put it, "**the fundamental law of the social market economy**".

The Competition Council ensures that the market functions properly by making sure that companies compete fairly to promote innovation, diversity of supply and low prices for consumers.

However, **Russia's war against Ukraine** since the beginning of 2022, severely condemned by the Council in a joint statement by the European Competition Network (ECN), has seriously complicated the task of national competition authorities. This war and its terrible consequences are already accompanied by imponderables on the markets, shortages and considerable price increases in many sectors.

In this very particular context, competition law has therefore had to be flexible and resilient in adapting to people's needs. In many sectors, companies currently need to cooperate with each other in order to be able to respond to bottlenecks in the production, warehousing, logistics and distribution of goods. The revival of activities may indeed justify cooperation between competitors or close coordination with suppliers in a way that, under normal circumstances, might not be acceptable from the point of view of competition law. The European Commission and national competition authorities in Europe and around the world have therefore had to cooperate closely to take account of exceptional economic conditions in assessing cartels. For example, the war-related crisis in Ukraine has not only affected everyone's daily life, but has also reshaped the framework conditions of the economy.

In times of crisis, businesses rightly demand legal certainty and quick and easily understandable advice. In response to their concerns, and following the example of their 2020 [joint statement on the application of competition law during the COVID crisis](#), the members of the European Competition Network have therefore issued a [joint notice](#) in early 2022 on the [war in Ukraine](#) to provide guidance to EU businesses on the interpretation and application of competition rules during the crisis. Consequently, the Council has not and will not actively intervene against strictly necessary and temporary measures aimed specifically at avoiding the serious disruption caused by the impact of the war on the internal market.

The year 2022 was also marked by the vote by the Luxembourg Parliament of the **draft law 7479 on competition**, which transposes into Luxembourg law the European Directive 2019/1 of the European Parliament and of the Council, thus enabling Luxembourg to comply with its European obligations. With the entry into force of this [law of 30 November 2022 on competition](#), the Competition Council has become, as of January 1, 2023, a fully-fledged public institution, now called "Autorité de la concurrence du Grand-Duché de Luxembourg".

This new legal framework increases legal certainty for companies affected by the Authority's activities by improving clarity and procedural guarantees, in particular in the event of controls or inspections. It also serves as a cornerstone for future new tasks for the Authority, including the envisaged introduction of merger control of companies at the national level, which has been subject to public consultation and will result in the submission of a draft law planned for spring 2023.

On the other hand, the missions of a competition authority include not only the application of national and European competition law, but also an **advisory function** and, by extension, a reflection on the permanent and necessary adaptation of the tools at its disposal, as well as the promotion of an effective competition policy that serves society.

We are therefore not only a sanctioning and prohibiting authority, but above all a partner of the economy. Already during the Covid-19 crisis, we were available to companies as a privileged partner to advise and assist them in their efforts to cooperate in the crisis, without any red tape.

The same applies today to the crisis in the energy markets. We support initiatives that truly promote sustainability while preserving competition and its corollary: innovation. Competition and sustainability really do go hand in hand. The Council has thus looked in particular at the organization of the electricity market and the mechanisms of price formation, and stressed the importance of creating a favorable framework for the diversification of renewable energy sources to make the electricity market more flexible, both on the supply and demand sides.

In the context of the great digital acceleration of the last three years, the competition authorities have also had to broaden their scope of reflection to include issues relating to the digital economy. Thus, with the adoption of the law of 30 November 2022, transposing the European Directive 2019/1, the Council has also been given a new task, namely that of monitoring and, if necessary, adjudicating over commercial relations between online platforms and their professional users. This gives us an additional instrument to ensure that competition rules are respected between business partners of unequal size.

In terms of competition law enforcement, the Council has dealt with several complaints and opened several competition and **sector inquiries**. Sector inquiries will continue to be the preferred tool for deciphering the dynamics of markets where effective competition appears weak.

The Council therefore conducted a sector inquiry in the pharmaceutical sector which focused on the analysis of the medicines and pharmacies sector in Luxembourg. The Council found that the medicines and pharmacies sector is highly regulated; numerous legal restrictions hinder competition and prevent the modernisation of Luxembourg pharmacies. Nevertheless, the particularities of pharmacies are not sufficient to exempt them from the regulatory forces of markets that evolve in a competitive context; in particular because the mechanisms of

competition allow for efficiency gains and cost reductions, to the benefit of society and of those primarily concerned, namely patients.

The year 2023 is therefore shaping up to be **a pivotal year** for the Competition Council, a year marked by challenges, but also by renewal with its evolution towards greater autonomy and a stronger structure by becoming an independent public institution under the name of Competition Authority of the Grand Duchy of Luxembourg.

Below are the details of the last year of activity of what should now be called the former Competition Council.

I hope you enjoy reading it.

Pierre Barthelmé

I. Presentation of the Council

A. Organization until 31 December 2022

Structure of the Competition Council

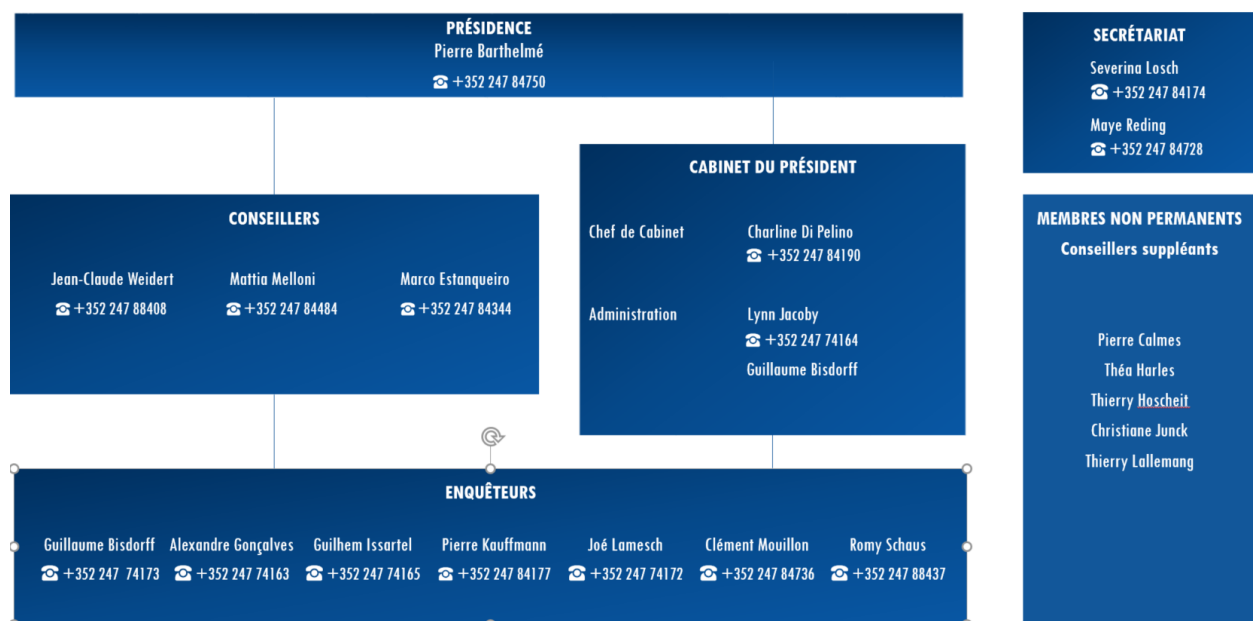
Until 31 December 2022, the Competition Council (hereinafter, the "Council") was an independent administrative authority whose role was to guarantee free competition and ensure the proper functioning of markets. The Council was governed by the amended Competition Law of 23 October 2011 (hereinafter: the "Competition Law").

Following the adoption of the law of 30 November 2022, the Competition Council has become the [Competition Authority of the Grand Duchy of Luxembourg](#) as of January 1, 2023. The new Authority now operates as an independent public institution with legal personality and financial and administrative autonomy.

It thus takes over from the Competition Council to apply national and European legislation on the prohibition of cartels and abuses of dominant position. It is also in charge of enforcing the prohibition of unfair practices in the agricultural and food supply chain and of defending the collective interests of businesses against digital platforms and search engines. It keeps the same premises and contact details as the Competition Council.

This report merely describes the activities of the Competition Council until 31 December 2022, without going into detail about the new legal provisions introduced as of 1 January 2023.

As of 31 December 2022, the Council had a total of twenty-two employees, namely four effective councillors (including the president), five substitute councillors (mainly from the judiciary and called upon to sit on the decision-making body), eleven permanent staff members and three *non-governmental advisors*, who represent the Council within the framework of the *International Competition Network*, namely Marc Barennes, Thierry Reisch and Vivien Terrien.



Organization chart of the Competition Council as of 31 December 2022

Role of the effective councillors

The President provides leadership to the Council. He convenes and chairs the meetings of the decision-making body, ensures the smooth conduct of discussions, oversees that the Council's decisions are implemented and ensures the proper functioning of the authority. He represents the Council in all judicial and extra-judicial acts.

For each case, he appoints an effective councillor responsible for the investigation phase. The designated councillor collects incriminating and exculpatory evidence relating to the practices under investigation.

In order to guarantee the principle of separation between the investigation and decision-making phases, the councillor who has investigated a case may not take part in the decision-making process. The same principle prevents the president from taking on investigative missions.

Role of the head of cabinet

The head of cabinet is responsible for supervising internal procedures, providing advice, expertise and decision support in competition matters in order to ensure the correct application of the legal provisions. She ensures that internal procedures are implemented and applied with certainty and consistency with the decisions or opinions issued by the Council.

Role of the substitute councillors

Substitute councillors are called upon to replace effective councillors in case they are absent or unable to take part in collegial decisions falling within the competence of the Council.

Role of the investigators

The Council's investigators assist the councillors in their missions.

B. Fields of competence

Competences conferred by the amended Competition Act of 23 October 2011

In carrying out its missions, the Council seeks to protect the interests of consumers, as well as the interests of businesses, against anti-competitive behaviour by competitors that may have the purpose or effect of preventing, restricting or distorting competition.

Article 6 of the [Competition Act](#), repealed by the Act of 30 November 2022, defined the Council's missions, competencies and powers, which could be summarized as follows:

- the Council applies Articles 3 to 5 of the Competition law, as well as Articles 101 and 102 of the Treaty on the Functioning of the European Union (hereinafter: "TFEU"), namely the prohibition of cartels and abuses of dominant position;
- he represents the Grand Duchy of Luxembourg within the ECN, the European network of competition authorities;
- It issues opinions on any draft legislative or regulatory text or any other measure relating to competition issues;

- it may investigate a particular sector of the economy or a particular type of agreement in different sectors when trade patterns, price rigidity or other circumstances suggest that competition may be restricted or distorted;
- it may inform companies of the interpretation it intends to give to articles 3 to 5 in relation to new and unresolved issues through informal orientation letters;
- it cooperates with the European Commission and with the competition authorities of other Member States, in accordance with the provisions of Regulation (EC) No. 1/2003 of 16 December 2002.

In 2021, the Council was given additional powers in terms of unfair practices and consumer protection.

Competences conferred by the law of 1 June 2021

The [Law of 1 June 2021](#) on Business to Business Relationships in the Agriculture and Food Supply Chain came into effect on 1 September 2021.

In the context of contractual relations between suppliers and purchasers of agricultural and food products, this law prohibits by operation of law certain unfair trade practices and lists certain practices that may be permitted only if they have been agreed upon in advance in clear and unambiguous terms.

Prohibited practices include late payments, cancellation of orders at short notice, unilateral changes to contractual terms and conditions, and unfair allocation of costs to the supplier.

The Competition Council is the competent authority to enforce these legal prohibitions. In order to investigate unfair business practices prohibited by law, the Competition Council may use its investigative powers under the Competition Act. The Council may also impose fines and penalties in the event of a finding of violation of the law.

Supply agreements concluded before the entry into force of the law were due to comply with the law by 1 June 2022.

No cases fallig within its scope were brought to the Council's attention in 2022.

Competences conferred by the law of 19 November 2021

The [Law of 19 November 2021](#) amending the Consumer Code entered into force on 6 December 2021.

This law implements Regulation (EU) 2017/2394 of the European Parliament and of the Council of 12 December 2017 on cooperation between national authorities responsible for the enforcement of consumer protection laws.

The major contribution of this law is the designation of the Council as the competent authority to bring actions for any injunction against any act contrary to the provisions of the [Law of 24 May 2011 on services in the internal market](#).

This law transposes into national law Directive 2006/123/EC on services in the internal market, which establishes a systematic codification of the established case law of the European Court

of Justice (ECJ) on services and creates a functional internal market by establishing a legal framework that removes unjustified obstacles to the freedom of establishment of service providers and the free movement of services between Member States.

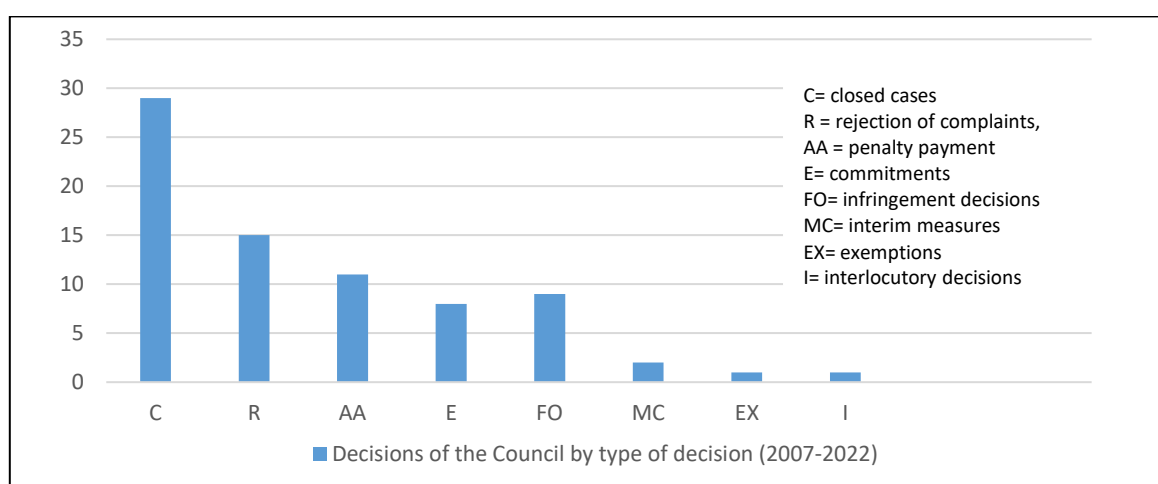
II. Activities of the Council in 2022

A. Litigation activities

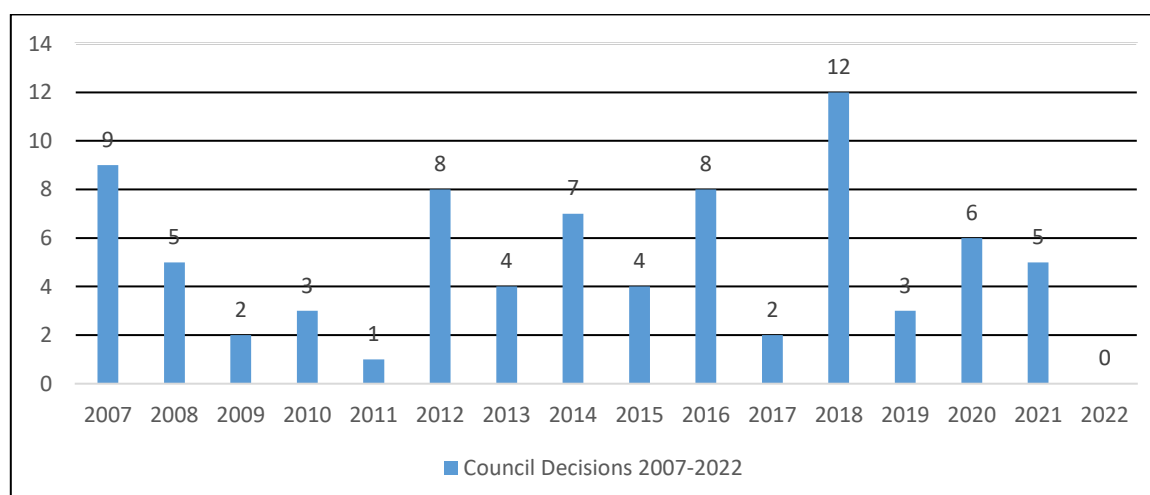
The Competition Council is competent to take binding decisions aimed at enforcing competition law. It can take various types of decisions, including provisional decisions known as interim measures, decisions accepting commitments, decisions imposing sanctions and decisions requiring companies to put an end to the infringement. The purpose of these decisions is to prevent or stop an anti-competitive practice.

No final decisions were made by the Council in 2022. Depending on the complexity of a case, the investigation can take several months or even years. For reasons confidentiality reasons, this report does not mention cases that are still under investigation or at the decision stage.

Decisions adopted by the Council between 2007 and 2022 by type of decision



Number of decisions adopted by the Council between 2007 and 2022



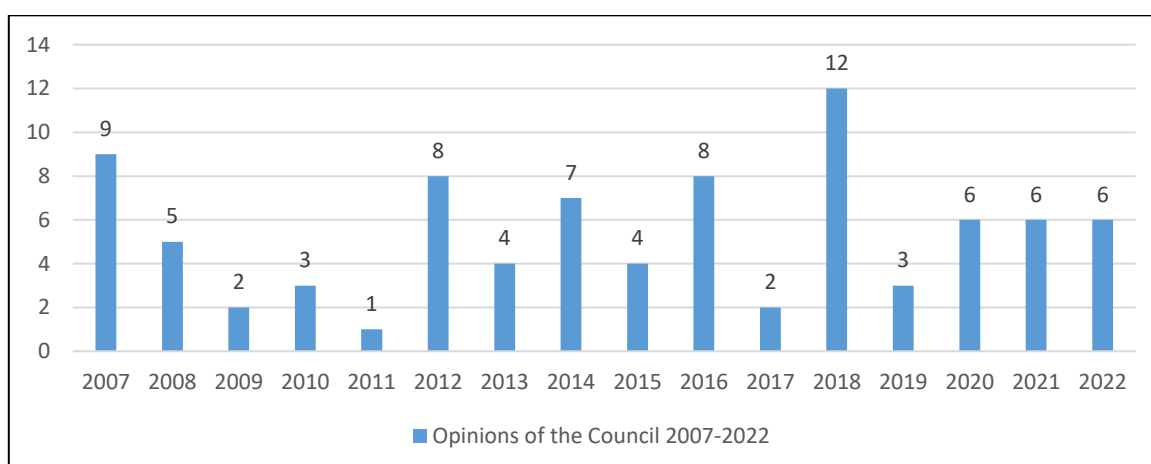
B. Advisory activities

According to Article 29 of the Competition Act, the Council has an advisory role. Within this framework, it may issue opinions, on its own initiative or at the request of the Minister of the Economy, on any matter concerning competition.

In 2022, the Council issued the following opinions:

- [Opinion 2022-AV-01](#) on the draft law N° 7932 on the exercise of professions in the construction and spatial planning sectors.
- [Opinion 2022-AV-02](#) on the draft law N° 7968 transposing Directive (EU) 2019/1151 of the European Parliament and of the Council of 20 June 2019 on the digitisation of the notarial profession.
- [Opinion 2022-AV-03](#) on the draft law N° 7945 transposing Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report violations of Union law.
- [Opinion 2022-AV-04](#) on the draft law N° 7958 on access to and training in the professions of lawyer, notary and bailiff and amending :
 - 1) the amended law of 4 December 1990 on the organisation of the service of judicial officers and
 - 2) the amended law of 10 August 1991 on the legal profession.
- [Opinion 2022-AV-05](#) on the draft law N° 7876 amending
 - 1) the amended law of 1 August 2007 on the organization of the electricity market and
 - 2) the amended law of 1 August 2007 on the organisation of the natural gas market.
- [Opinion 2022-AV-06](#) on the draft law n° 7989 amending the amended law of 2 September 2011, regulating access to the professions of craftsman, trader, industrialist and certain liberal professions.

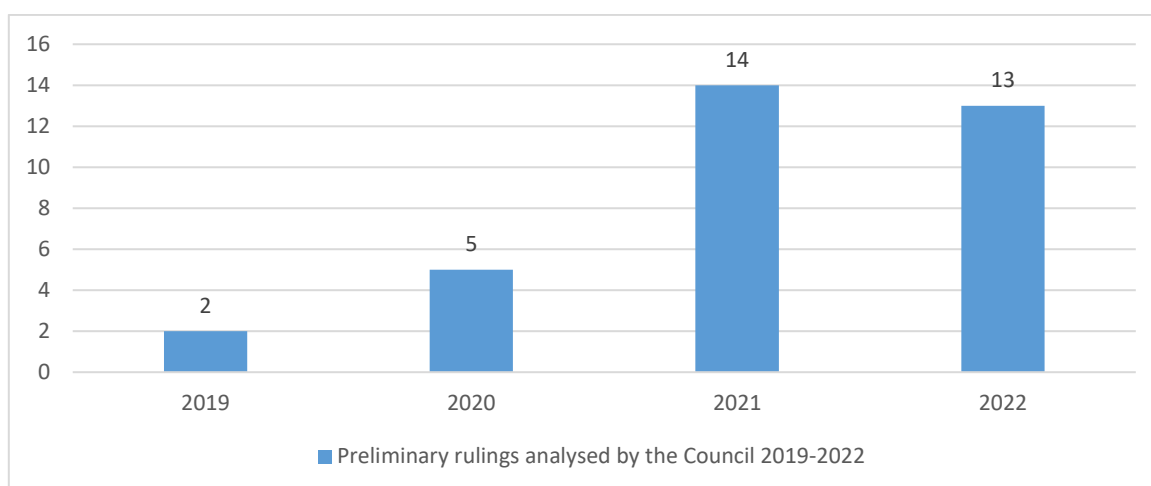
Number of opinions adopted by the Council between 2007 and 2022



During the year 2022, the Council also analysed several preliminary questions in cooperation with the Ministry of the Economy and the Ministry of Foreign and European Affairs, which are summarised below:

Reference N°	National Court	Provisions concerned
C-807/21	Germany	Articles 101 and 102 TFEU
C-70/22	Italy	Articles 102 and 106 TFEU
C-198/22 and C-199/22	Spain	Article 101 TFEU
C-211/22	Portugal	Article 101 TFEU
C-298/22	Portugal	Article 101 TFEU
C-547/22	Slovakia	Directive 89/665/EEC on the coordination of the laws, regulations and administrative provisions relating to the application of review procedures to the award of public supply and public works contracts
C-438/22	Bulgaria	Article 101 TFEU
C-464/22	Italy	Directive 2005/29/EC concerning unfair business-to-consumer commercial practices in the internal market ("Unfair Commercial Practices Directive")
C-652/22	Croatia	Directive 2014/25/EU on procurement by entities operating in the water, energy, transport and postal services sectors
C-660/22	Italy	Articles 101 and 102 TFEU
C-650/22	Belgium	Article 101 TFEU
C-700/22	Czech Republic	Article 108 TFEU
C-683/22	Italy	Directive 2014/23/EU on the award of concession contracts

Number of preliminary rulings analysed by the Council between 2019 and 2022



C. Sector inquiries

According to Article 30 of the Competition Act, the Council may conduct an investigation into a particular sector of the economy or a particular type of agreement in different sectors when the development of trade, price rigidity or other circumstances give rise to a presumption that competition may be restricted or distorted. At the end of the investigation, it may publish a report setting out its findings.

For confidentiality reasons, this report will not refer to ongoing sector inquiries.

Medicines and Pharmacy Sector Inquiry

On 16 June 2022, the Competition Council published its [investigation report on the medicines and pharmacies sector](#) in the Grand Duchy of Luxembourg.

In autumn 2019, the Council had opened, on the basis of Article 30 of the amended law of 23 October 2011 on competition, a sector inquiry in the pharmaceutical sector. The investigation focused on the analysis of the medicines and pharmacies sector in Luxembourg. The Council then preferred to suspend its investigation during the Covid-19 health crisis, in order to publish updated results, taking into account the impact of the pandemic on the health sector.

After conducting interviews, making enquiries, analyzing publicly available figures and reviewing legislation and literature, the Council has published its findings.

The Council found that the medicines and pharmacy sector is highly regulated. Numerous legal restrictions hinder competition and prevent the modernisation of Luxembourg pharmacies.

Throughout the enquiry, stakeholders interviewed justified these restrictions by the public service and public health protection goals that pharmacies must pursue.

Nevertheless, the particularities of pharmacies are not sufficient to exempt them from the regulatory forces of competitive markets from the outset and as a matter of principle; in

particular because the mechanisms of competition allow for efficiency gains and cost reductions, to the benefit of society and the primary beneficiaries, namely patients.

For this reason, the Council made a number of recommendations as part of its investigation, including:

- abolishing price caps on over-the-counter medicines that destroy price competition in pharmacies;
- diversifying imports, in order to lower the price level of some medicines, especially OTC medicines;
- promoting the use of generic medicines through a series of measures, including the creation of new groups of substitutable medicines;
- Attempting to reduce medicines stock-outs through various mechanisms, such as:
 - ✓ promoting international non-proprietary name prescribing,
 - ✓ using public procurement, or
 - ✓ monitoring stock-outs in a centralised database;
- facilitating the establishment of new pharmacies by gradually replacing the current dual system with a system of free establishment linked to qualification criteria;
- partially opening up the double monopoly of pharmacies (ownership & distribution) by, for example, allowing private companies to own pharmacies or by authorizing the distribution of non-prescription medicines in establishments other than pharmacies;
- modernising the online sale of medicines, by authorizing, among other things, the online sale of prescription medicines and opening up this activity to players other than licensed pharmacists;
- extending the pharmacist's tasks by developing new services in pharmacies, in order to partially compensate for the shortage of doctors in Luxembourg: vaccination, pharmaceutical interview, blood pressure and blood sugar tests, prescription extension and rapid diagnostic orientation test.

III. Cooperation actions at European and international level

A. European Competition Network (ECN) meetings

As it does every year, the Council has actively participated in the development of European competition policy within the European Competition Network (hereinafter: ECN). This part of the annual report gives an overview of the discussions in which the Council participated within this network.

The work of the ECN in the various horizontal and sectoral expert groups is steered by the meetings of the Directors-General, which are prepared during the plenary meetings.

Directors-General (DG) meetings

In 2022, executive Directors-general meetings and plenary meetings were again able to be held face-to-face.

One of the DG meetings was held in Athens, Greece, where the national competition authorities met with Competition Commissioner Margarethe Vestager about the "digital markets act".

The meeting was followed by the "Competition law and policy forum". This workshop allowed an exchange between the national competition authorities (NCAs) and academic on topical issues such as the interaction between competition law and policy and sustainability.

Plenary meetings

The plenary met on 17 May and 28 October 2022. During these meetings, the national competition authorities (NCAs) and the Commission discussed several topics. The most important ones were:

- 1) the European Commission's competition guidelines on collective agreements for self-employed persons without employees;
- 2) the implementation of the Digital Markets Act (DMA);
- 3) the reform of the block exemption regulations on horizontal agreements, including the Commission's guidelines on such agreements;
- 4) cooperation with African competition authorities;
- 5) the evaluation of the Technology Transfer Block Exemption Regulation, which exempts certain agreements and practices from the general EU competition rules and will expire in 2026;
- 6) the project to promote greater convergence of antitrust fines in selected areas;
- 7) the evaluation of Regulation 1/2003 and its implementing regulation, Regulation 773/2004, including an update on the revision of the Guidance Letter Notice.

ECN "*horizontal*" working groups

These groups bring together representatives of each national competition authority and the European Commission to discuss specific issues, with the aim of promoting greater consistency in their decision-making practice.

Working Group on Cooperation Issues and Due Process

The purpose of this working group is to study the national procedures of each national competition authority (NCA) and to identify areas where potential convergence actions could arise in order to ensure better effectiveness in the implementation of Articles 101 and 102 TFEU. They met 4 times in 2022, on 9 and 10 March as well as on 7 and 20 October 2022.

The working group on cooperation issues and due process mainly focused on two projects: convergence on fines and coordination of NCA decisions with a cross-border effect. Internal discussions also took place on the respective roles and missions of national regulators and NCAs.

For the first time, the working group looked at the relationship between personal data protection and their processing by NCAs.

Finally, the working group addressed the amendment of Regulation 1/2003.

Working Group on Cartels

This working group aims at building and consolidating a genuine European anti-cartel policy within each national competition authority. They met twice in 2022.

One of the topics discussed at these meetings concerned the role of "facilitators" in cartel cases. This concept allows for the sanctioning of companies that contributed to the conception and implementation of a cartel without themselves being active on the market where the cartel took place. This concept has notably allowed the European Commission to sanction a consulting firm that facilitated an anti-competitive exchange of information between competitors. The issue of non-hiring agreements, which concern agreements on the terms and conditions of employment of employees, was also discussed during these meetings.

Working Group on Horizontal Restrictions and Abuse

The purpose of this working group is to identify specific and topical issues for national competition authorities (NCAs) in the area of horizontal anti-competitive practices and abusive behavior. During the meeting held on September 14, 2022, discussions focused on

- 1) the revision of the block exemption regulations applicable to horizontal agreements;
- 2) the update of the European Commission's *e-Leniency* tool;
- 3) the concept of competition on the merits and the recent decision-making practice of certain national competition authorities.

Working Group on Competition Law Awareness

The purpose of this working group is to promote public awareness of competition law. It met twice in 2022.

The first meeting was held on 18 February 2022. The meeting allowed NCAs to review the conference "*Taking Competition Policy into the future*", organized by the European Commission on February 3, 2022, and to discuss the implementation of effective competition law awareness policies.

A second meeting was held on 29 September 2022. Discussions focused on the "*Competition Advocacy Contest*" organized by the International Competition Network, on the competition advocacy policies implemented by some national competition authorities and on the notion of "*broad advocacy*".

Working group on digital investigations and artificial intelligence

The purpose of this working group is to deepen ECN cooperation on digital investigations, including intelligence, investigative data analysis, and digital processes in general. It met on 11 and 12 October 2022.

Working Group on Vertical Restraints

This working group deals with issues relating to vertical agreements. Vertical agreements are agreements between two or more companies operating at different levels of the production or distribution chain and relating to the conditions under which the parties may purchase, sell or resell goods or services. The working group met on 13 September and focused mainly on home delivery platforms.

Chief Economists Working Group

This working group focuses on the economic aspects of competition law and their role in the work of the authorities. On 25 November, the group addressed the issues of the new Notice on market definition and the use of economic models and methods in competition and merger cases.

Working group on Mergers

Within this working group, NCAs exchange their experiences and views on all aspects of merger control. The group met four times in 2022 and discussed, among others, the adjustment of notification thresholds, the simplification of procedures, legislative developments in various Member States and recent rulings by the Court of Justice.

Digital Markets Act Working Group

The group followed the legislative work on the Digital Markets Act (DMA) and focused in particular on the preparatory work for an effective cooperation between national competition authorities and the European Commission.

ECN working groups on specific sectors

The ECN also has various working groups focused on specific economic areas or sectors. In 2022, the Council monitored the work of the Agribusiness, Pharmaceutical and Healthcare, Banking and Finance, and Energy sector-specific groups.

Agri-food sector

The *Food* Working Group met twice in 2022, on 18 May and 30 November 2022.

At the 18 May meeting, several NCAs presented the cases they have closed in the food sector in 2022, such as the phytosanitary products cartel for which the Lithuanian NCA had implemented its settlement procedure for the first time and sanctioned 4 companies for an amount exceeding 12 million euros for colluding on the price to be submitted in a call for tender organised by the municipalities of Vilnius and Kaunas..

At the 30 November meeting, discussions focused in particular on strategic alliances between food retail networks and their apprehension by the network's competition authorities. The context of price inflation also gave rise to exchanges between authorities on the effectiveness of food price regulations adopted by certain Member States.

Health and Pharma sector

The *Health and Pharma* Working Group met twice this year: in May and October. The May meeting was an opportunity for the Council to present its survey report on pharmacies & medicines. In October, the group focused on the wholesale market and the 'pay for delay' cases.

Banking and financial sector

This group met on 11 and 30 November. The European Commission and the NCAs presented the cases and sectoral investigations they have closed in the financial sector during the year.

Energy sector

The *Energy* Working Group met by videoconference on 25 October 2022. The national competition authorities discussed some recent cases involving the energy sector. It was also an opportunity to discuss the emergency measures adopted by the Council of the European Union to address high energy prices as well as the proposed measures on EU demand aggregation and joint gas procurement.

B. Organization for Economic Cooperation and Development (OECD)

The OECD deals with competition issues through the meetings of the Competition Committee and the Global Forum on Competition.

The Competition Committee encourages discussion and analysis of competition policy issues.

The OECD [Global Forum on Competition](#) annually brings together competition officials from more than 100 authorities and organizations from around the world to discuss key issues and recent trends in competition law.

In 2022, the Council participated in the Forum held on 1-2 December and the following topics were discussed: competition policy objectives with Mathias Cormann, Margrethe Vestager, Rebeca Grynspan, subsidies and trade, remedies in abuse of dominance cases, and interactions with sectoral regulators

On 20 June 2022, the Council also participated in the round table organized by the OECD on the subject of purchasing cartels. During this meeting, several member states of the OECD working group on competition presented cases on this subject.

C. International Competition Network (ICN)

At the international level, the Council actively follows the work of the International Competition Network.

The ICN brings together various national competition authorities at the global level and serves as a forum for discussion of competition law enforcement issues.

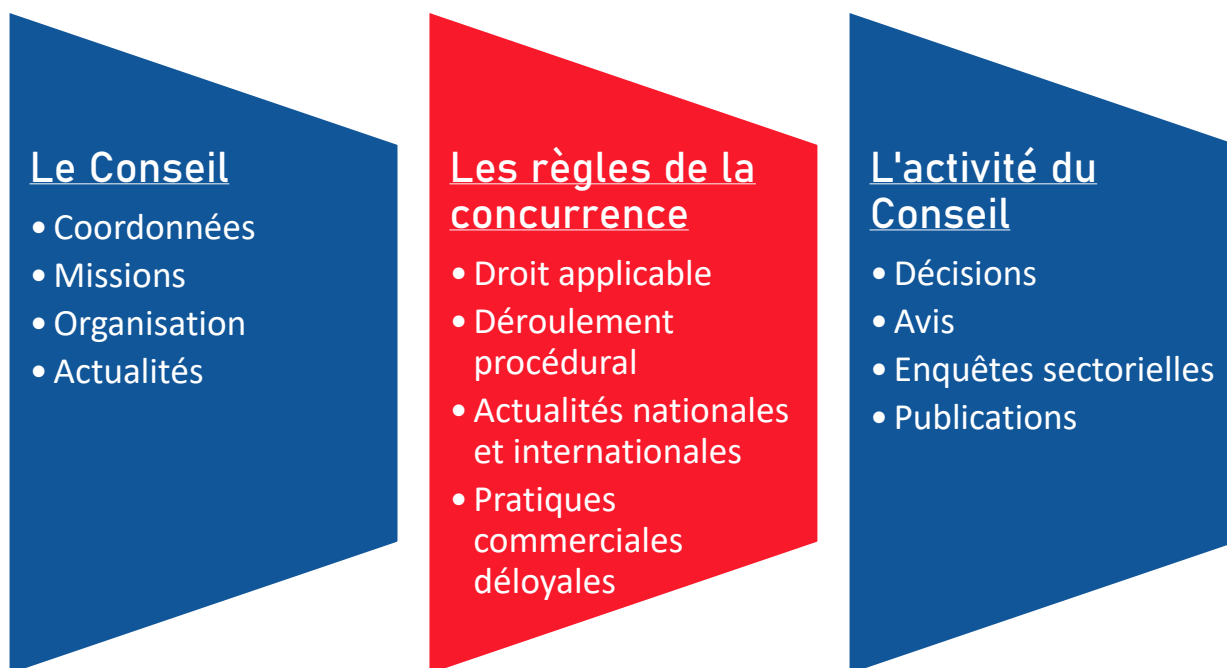
Non-governmental agents appointed by the Board participate in meetings and discussions within this network. Marc Barennes, Vivien Terrien and Thierry Reisch have been appointed in this capacity for two years.

From 1 to 4 May 2022, the German Competition Authority hosted the 21st annual conference of the International Competition Network. Among other things, the conference addressed the issue of cartel enforcement in the next decade and priorities and new trends beyond the pandemic as well as the principles of competition for the provision of digital services.

IV. Awareness and communication actions (*advocacy*)

A. Website

Work has begun on the redesign of the Council's website, www.concurrence.lu, to reflect the continuation of the Council's activities by the new Competition Authority. The necessary updates were started at the end of 2022 and will continue during the year 2023. The website will keep all the former publications of the Council while providing information on the most important aspects of competition law in Luxembourg:



In 2022, the Council posted news about its activities on its website, including the various public consultations related to competition law, the training sessions it organized, its sector inquiries and the opinions it issued on various bills.

The Council has also published on its website the announcements of the various vacancies published with a view to providing the new Competition Authority with the staff necessary for its operation.

Finally, the Council has expanded the content of its website to inform suppliers and buyers in the agricultural and food distribution chain of the unfair commercial practices introduced by the law of 1^{er} June 2021. A specific complaint form has also been developed.

B. Newsletter

Throughout the year 2022, the Council continued to send out its newsletter entitled "*Competition issues in Luxembourg and abroad*".

All newsletters issued by the Council are available on its website, under: <https://concurrence.public.lu/fr/support/newsletter.html>.

C. Social media

As of 2019, the Council has a presence on Twitter (https://twitter.com/concurrence_lux) and LinkedIn (<https://www.linkedin.com/company/concurrencelux/>).

As of 31 December 31 2022, the Council had 525 followers on its Twitter account and 943 followers on its LinkedIn account.

D. Midi de la concurrence

As part of the "Midi de la concurrence" series of events, the Council aims to provide a platform for stakeholders to discuss current competition issues.

The Competition Council has therefore organized a competition afternoon dedicated to the legislative package on digital services: the Digital Markets Acts (DMA) and the Digital Services Act (DSA).

The speakers explained how these regulations aim to regulate the European digital space by framing the responsibility of intermediaries. The DMA aims to ensure that online platforms adopt fair practices and do not abuse of their position. The DSA aims to fight against the dissemination of illegal or harmful content.

The event ended with an exchange between the participants and the speakers on the impact of the legislative package on the authorities in charge of applying the new rules.

V. Training activities

A. Seminars provided by the Council

Seminar at the Institute of Political Studies of Strasbourg (IEP)

This year, the Council continued its cooperation with the IEP of Strasbourg, by providing students of the *Master II in Economic and Regulatory Law in Europe* with a "Moot Court" type seminar, giving students the opportunity to analyze a case from its investigation to its decision phase.

Seminar at the University of Lorraine in Nancy

For several years now, the Council has been teaching European competition law to the students of the *Master II International and European Business Lawyer*.

Some of these students had the opportunity to join the Council for their final internship. During the year 2022, the Competition Council welcomed five students from various universities.

B. Courses attended by the Council's staff

Summer Course on Competition Law and Economics in the EU, Moena-Trento, Italy

The Council participated in the 2022 Summerschool of the University of Trento (Italy) on advanced aspects of competition law and economics in the EU.

This 7th edition was a unique learning experience and also proved to be an excellent networking opportunity.

During a whole week, competition authorities, advisors, lawyers, judges, academics and journalists from all over Europe were able to participate in a variety of courses, conferences and events, ranging from the historical foundations of competition law, to antitrust compliance and enforcement, to future developments in EU competition law and merger control.

ERA Summer School on European Antitrust Law, Trier, Germany

In July 2022, several members of the Council participated in the courses on European competition law organized by the Academy of European Law.

These summer schools present the latest developments in European competition law and allow for an interesting exchange of information between the different enforcement authorities of the EU member states, competition lawyers and teachers.

College of Europe "Competition Policy & Digital Markets"

In July 2022, the Competition Council participated in the e-learning course provided by the College of Europe. The course focused on how competition law is shaping the EU's digital single market by including the most recent developments regarding the Digital Markets Act, data-driven mergers and abuses of dominance, algorithmic collusion as well as the platform economy and vertical agreements in the digital age.

Effective Writing - "Write to impress? No: write to be read"

On 6 October 2022, all Council staff participated in a face-to-face training session on written communication. This training was an opportunity to train employees in the methods and techniques of effective writing to be read and understood by ensuring that the content is coherent and structured.

Seminars and webinars

Again in 2022, the Competition Council carefully attended several seminars and webinars.

ERA Seminar "Dawn Raids in Practice: Advanced Competition Law Training"

The Council participated in the seminar "[*Dawn Raids in Practice: Advanced Competition Law Training*](#)" organized by the ERA in collaboration with the LUISS School of Law, in Rome, on 29 and 30 September 2022. This seminar aimed to provide a comprehensive and detailed overview of the conduct of searches in light of the EU Charter of Fundamental Rights and the case law of the Court of Justice of the European Union (CJEU) and the European Court of Human Rights (ECHR). The sessions focused on the main issues that may arise at different stages of the inspection, including: the powers of inspectors, as well as their limits in the light of the case law of the CJEU and the ECHR; the objections that may be raised during the inspection; or how to resolve problems and conflicts that arise during the inspection.

Competition Day, "The challenges of competition policy in the face of changes in trade", Paris

Several employees participated in the competition day "[*The challenges of competition policy in the face of changes in trade*](#)" which was held at the Ministry of Economy, Finance and Recovery in Paris on 8 April 2022. During this day, the following topics were discussed: in a context of increasingly close cooperation, does competition law correctly apprehend the phenomenon of purchasing agreements; the DMA and the challenges of the digitalisation of trade; the challenges of the revision of the regulations on vertical restraints.

Closing remarks

Despite a year 2022 troubled by geopolitical events that shattered consumers' hopes for a return to normal life after three years of a harrowing health crisis, the reform of national competition law has finally been achieved.

Thanks to a stronger legal framework, the new "*Competition Authority of the Grand Duchy of Luxembourg*" now has the necessary tools to effectively enforce competition rules on the national territory.

The new responsibilities entrusted to the Authority in terms of relations between digital platforms and user companies and, in the near future, merger control represent both a challenge and an opportunity for the Authority. A challenge because the Authority will have to adapt and deploy the necessary skills very quickly to carry out its missions; and an opportunity because it will finally have the instruments adapted to the requirements of an increasingly digital economy.

These changes finally open the door to other future adaptations of competition law to define the framework that will make it possible to guarantee fair business practices between companies in the interest of consumers.

This report is drawn up in accordance with Article 7, paragraph 5 of the amended Competition Act of 23 October 2011, which states that: "*The Council shall draw up an annual report on its activities which shall include the important decisions taken by it, taking care to specify whether these decisions have become final. The report shall be submitted to the Minister [responsible for the economy] and to the Luxembourg Parliament. It shall be made available to any interested person.*"



34-38, avenue de la Liberté
L-1930 Luxembourg

Tél. : (+352) 247-84728

info@concurrence.public.lu

