

LEGAL ALERT

New powers of the Polish Competition Authority to impose fines on managers

On 15 December 2018 certain provisions of the Act on changes of certain laws in connection with the reinforcement of the supervision of the financial market and protection of the investors entered into force ("**Amendment**"). One of the main purposes of the Amendment is to give the President of the Office for Competition and Consumers Protection ("**Competition Authority**") new tools to prevent and sanction practices which infringe the **collective interests of consumers and the application of abusive clauses**, in particular in the financial sector. The Amendment allows the Competition Authority to impose high fines on the managers of undertakings which apply such practices.

Main changes introduced by the Amendment

The Amendment introduced new provisions to the Act on competition and consumer protection. These provisions give the Competition Authority the right to impose fines on a **manager** who – when exercising his or her duties when the infringement has been in place - intentionally allowed (by action or omission), the business undertaking to infringe the collective interests of consumers or to apply abusive clauses. The statutory threshold of a fine amounts up to **PLN 2 million**, while in the case of a manager from the financial sector – up to **PLN 5 million**.

Public announcements of the President of the Competition Authority indicate that he intends to exercise in practice the new rights introduced by the Amendment. The President of the Competition Authority stressed that:

"We will make use of the new tools because our experience shows that the decisions and supervision of managers have a huge impact on a company's practices that violate consumer rights. This could be, for example, putting pressure on sales staff to gain as many customers as possible, even at the cost of misleading them."

Prior to the entry into force of the Amendment, the Competition Authority was entitled to impose a fine (up to PLN 2 million) on a manager who intentionally allowed the undertaking to enter into anticompetitive agreements. To date the Competition Authority has never imposed the pertinent sanction. However, in June 2018 the Competition Authority commenced the first antimonopoly proceedings in which charges were brought not only against the undertakings but also against certain managers.

It should be also noted that on the basis of the Amendment, the Competition Authority has become a member of the Polish Financial Supervision Authority and will participate in its meetings as an advisor capacity. The main purpose of the pertinent change is to improve information flows between the above administrative authorities.



Krzysztof Kanton
Partner, attorney-at-law
+48 22 608 70 64
krzysztof.kanton@skslegal.pl



Dr Jarosław Łukawski
Senior Counsel, attorney-at-law
+48 22 608 73 56
jaroslaw.lukawski@skslegal.pl



Joanna Marek
Senior Associate, attorney-at-law
+48 22 608 70 97
joanna.marek@skslegal.pl