Antimonopoly Regulation in a Transition Country: The Example of Georgia

Ketevan Lapachi[1]

Introduction

It is notorious that market forces by themselves are not protected from the actions restricting competition. Therefore a main task of every country's government is to protect the economic agents and consumers from any manifestation of monopolistic activity, including restraints on competition and unfair competition by entrepreneurs. These tasks are especially urgent for the countries having a strictly monopolistic past, such as the republics of the former Soviet Union, including Georgia.

At the first stage of independence, the course to free the market economy was taken by the Georgian government. In the beginning of the 1990s, the forced transition from "socialistic capitalism" to the free market economy was begun. The achievement of a competitive economy requires a number of policy achievements, including demonopolization of the national economy, privatization of state property, liberalization of economic activity (including foreign trade, price liberalization, and so on. Unfortunately the reforms have begun in Georgia without an overall plan or program, without any kind of mechanisms to protect the population from the numerous social and economic problems typical of the transition process. As a result, market participants -- independent entrepreneurs and consumers alike -- found themselves suddenly under the pressures of wild market capitalism.

In the fall of 1993, a medium-term program for economic reform was worked out. According to this program, one of the main tasks of the reforms was to create the legal and institutional bases for antimonopoly regulation in order to protect consumers and entrepreneurs, to restrict and prohibit monopolistic activity, and to promote competition.

At the initial steps of transition to the market economy, in February 1992 a new section, the Antimonopoly Department, was created within the Ministry of Economy of Georgia, the main tasks of which were the following: restriction of monopolistic activity, the promotion of competition, the support of entrepreneurs, and the protection of consumer rights. From 1992 to 1996 the activities of the Department were essentially based on a Decree of the State Council ("On Restriction of

[1] Deputy Head, State Antimonopoly Service of Georgia. The opinions expressed are those of the author, and may not reflect the views of the State Antimonopoly Service of Georgia. The analysis in the paper reflects the Georgian antimonopoly law enforcement experience for the period 1992-1999.

Antimonopoly Activity and Competition Development"), although antimonopoly enforcement was also envisaged by some articles of other normative acts, for example, the law "On Basic Principles of Entrepreneurial Activity" and the decree of the Council of Ministers of Georgia "On Measures for the Demonopolization of the National Economy." In December of 1996, the law "On Monopoly Activity and Competition" created the State Antimonopoly Service of Georgia, attached to the Ministry of Economy.

In the same period, work was started on the drafting of a full antitrust law for Georgia, by taking into consideration both the antitrust legislation of the countries with free market economies and the reform experience of the post-socialist countries of Eastern Europe (taking into account the special "heredity from the Soviet command economy", of course). However, despite eight years of market-friendly antimonopoly legislation and the creation of organization bases for its implementation, the analysis of the practice of antimonopoly regulation in Georgia shows that there are numerous problems for fair competition that are specific to the post-socialist countries and especially to the CIS countries, including Georgia.

Review of the antimonopoly legislation of Georgia

According to the Constitution of Georgia (article 30), "The state is obliged to support the promotion of free entrepreneurship and competition. Monopoly activity is prohibited except in cases envisaged by the law."

On March 17, 1992 was adopted resolution #323 of the Government of Georgia, "On Measures for Demonopolization of the National Economy." In September was adopted a decree of the State Council, "On Restriction of Monopoly Activity and Competition Development." This was analogous toto the Russian law, "On the Development of Competition and Restriction of Monopolistic Activity," adopted in 1991. In 1996, the Parliament of Georgia adopted the law "On Monopolistic Activity and Competition," worked out by the Antimonopoly Department of Georgia by taking into account the practice, legislation, and experience of the both the developed countries and the East European post-socialist countries.

The main aims of the Georgian competition policy and legislation are twofold: the promotion of entrepreneurship, and the prohibition of unfair competition, anticompetitive activities and agreements, misuse of market position, mergers, and other actions which provoke or may provoke the restriction or elimination of competition on the market.

Acts, actions, and practices relative to the implementation of the state antimonopoly control are defined by articles 8, 9, 10, 12, 13, 14, 15, and 22 of the law "On the Monopoly Activity and Competition". The law prohibits unfair competition and any kind of agreement or adoption of any decisions leading to the restriction of competition (articles 8 and 9). The types of unfair competition are defined and restricted by article 9.

Moreover, according to article 10 of the law, government agencies are forbidden to adopt

decisions that lead to a slackening or restriction of competition and free pricing.[2] Agreements and coordinated actions between enterprises that do not compete with each other are prohibited where a) one of the enterprises holds a monopoly position and b) the other is its supplier or customer.[3]

The antimonopoly legislation of Georgia (unlike the American) contains a lot of provisions for the ex ante state control of the behavior of monopolistic firms, including the control of prices and contract terms, despite the fact that according to international principles a large company should not be penalized for its size or market share, which may be the result of current or past market successes. However, the purpose of this systematic, preliminary state antimonopoly control which imposes additional obligations and restrictions on monopolistic enterprises is to prevent their misuse of their monopolistic position. According to article 13 of the law, a monopolistic enterprise (unlike a non-monopolistic enterprise) shall be prohibited from such actions as:

1. A decline or cessation of production, or a withdrawal of goods from circulation and a buildup of inventories for the purpose of creating or maintaining a shortage and for influencing prices;
2. Creation of conditions preventing the entering, presence, or leaving of the market by other enterprises;
3. Creation of such discriminating conditions for other market participants as to force on them disproportionately high or low purchase or sales prices, or that connect the execution of an agreement with the execution of additional terms that are not connected with the agreement either in object or in usual trading procedures;
4. Any kind of compulsion to enter into an agreement;
5. Establishment of high or low monopoly prices that significantly differ from the expenses of production and distribution;
6. Reduction or halting of production of goods which are in demand, if production may be continued without losses;

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[2] The Russian, Ukrainian, and Romanian antitrust laws have similar provisions. See John Clark, **"Restraints by Regional and Local Governments on Competition: Lessons from Transition Countries,"** ***Brooklyn Journal of International Law*** **25 (1999).**

[3] The Russian antitrust law has a similar provision. See Russell Pittman, "Some Critical Provisions of the Antimonopoly Laws of Central and Eastern Europe," *The International Lawyer* 26 (1992), 485-503.

7. Dumping; and
8. Other actions that cause a restriction of competition or the infringement of the legal interests of enterprises or consumers.

Merger enforcement has an important place in antimonopoly law, but the efficiency of implementation of the appropriate provisions in the Georgian law has not been high, because of the deficiency of the appropriate mechanisms of state control.

According to article 14 of the law, a merger that would result in an enterprise in a monopolistic position must undergo an antimonopoly examination, in order to avoid *ex ante* the monopolization of the market. In case of a negative conclusion, the court shall refuse to register the new economic agent. As a preventive measure, the preliminary state antimonopoly control would be much more effective if the appropriate requirements were included in the law "On Entrepreneurship" (as they were in the earlier law, "On the Basic Principles of Business Activity"), namely that it is necessary in the case of a merger to include in the list of registration documents the outcome of the antimonopoly examination.

The sphere of implementation of the law "On Monopolistic Activity and Competition" is defined by articles 4, 5, and 6, according to which "this law pertains to matters that affect competition in the commodity market (production, labor, services) in which legal and physical persons (including foreign ones) or organs of government power in Georgia take part. The law is applicable in cases where an agreement or an activity conducted outside of the borders of Georgia restricts (or may restrict) competition or may influence a product market within the country in a negative manner."

According to article 5 of the law, the law shall not apply to the terms related to copyright and patent law, trademarks, and industrial designs." Proceeding from the interests of the country, the Parliament of Georgia has the right to limit in full or in part the application of this law to different kinds of monopolistic activity.

According to article 6 of the law, competition in the securities and financial services markets shall be regulated by the appropriate legislative acts, except in those cases where these activities affect competition in commodities markets. According to the legislation, the antimonopoly policy in the sphere of banking is enforced by the National Bank of Georgia, which determines the admissible parameters of activity, criteria for assessment, and measures of influence in this sphere.

As for international governmental agreements, article 7 stipulates that if the provisions of an international agreement to which Georgia is a party are inconsistent with the provisions of the antimonopoly law, the provisions of the international agreement take priority.

The law defines the tasks, rights, and responsibilities of the State Antimonopoly Body (articles 16-26) and the types of punishment (financial, administrative, and criminal) for persons violating the law. The amounts of penalties imposed for violation of the law, as discussed in articles 27 and 28, are determined in accordance with other Georgian legislation, namely the special articles

of the Code of Criminal Procedure and the Code of Administrative Infringements of the Law. Article 29 of the law describes the provisions for appeals against decisions of the Antimonopoly Body.

Requirements to protect competition are also included in other laws of Georgia: “On Advertising”, “On Insurance”, “On the Activity of Commercial Banks”, “On Telecommunications and Post”, etc. For example, article 22 of the law “On the Activity of Commercial Banks” prohibits banks that “independently or together with other enterprises may find themselves in a dominant position in the market of money, finance, or credit” from making certain kinds of deals and from acting in such a way that they or third persons might be in a position to have undeserved advantages.

By the law of Georgia “On Insurance”, it is provided that “insurance is carried out by any licensed insurance company, on the basis of agreement between insurer and insured (article 5). In the case of compulsory insurance (but not for other, voluntary forms of insurance), the law sets out the objects, forms, and rules of implementation that must be taken into consideration when the agreement between insurer and insured is signed. Article 6 of the law prohibits activity that is monopolistic or otherwise restricts competition, and, more importantly, article 8 stipulates that “the insured is free to choose the insurer, whether the insurance is voluntary or compulsory.”

A specific example of regulation is that of natural monopoly enterprises, whose number should decrease according to Presidential decree #95 of February 20, 1998. The forms and methods of regulation of natural monopolies are the subject of current discussion (and disagreement) among government bodies, especially between the State Antimonopoly Service, the Ministry of State Property Management, and the Energy Regulatory Commission.

The antimonopoly law of Georgia stipulates that “the implementation of decisions made by the antimonopoly body within its competence is compulsory for economic enterprises as well as for appropriate state bodies.” In order to enforce the antimonopoly legislation, appropriate amendments were made to the Administrative and Criminal Procedure Codes.

According to the Criminal Procedure Code, article 1653, “the signing of agreements or adoption of resolutions provoking the restriction of competition in the market is penalized in the amount of from one thousand, five hundred to three thousand minimum units of labor payment;” for the same actions carried out repeatedly, or by a group of persons, or if the result of the action was damages to a third party, the penalty is five years imprisonment and loss of the right to hold certain posts or to carry out certain activities.

Article 166 defines penalties for the illegal use of the trademarks of others (considered a form of unfair competition) as follows: “the illegal use of a trademark, a registered firm name, or a commodity marking, after appropriate administrative measures, is penalized in the amount of one thousand to two thousand minimum units of labor payment.” The same action committed repeatedly or which results in serious damage may be punished by imprisonment for five years.

Additionally, article 158 of the Administrative Code provides that the illegal use of a

trademark, a registered firm name, or a commodity marking may be penalized in the amount of 50 minimum units of labor payment.

Infringement of the rules of advertising is penalized in the amount of 500 to 1,000 Laris, but the same action carried out repeatedly is penalized in the amount of 1,000 to 3,000 Laris (article 159).

Article 158-2 envisions personal as well as enterprise penalties for violations of orders of the State Antimonopoly Service, whether under the antimonopoly law itself or under the consumer protection and advertising laws. Penalties for refusal to implement such orders can be in the amount of 300-600 Laris for enterprises, institutions, and organizations, and 3,000 Laris for executives of such organizations.

The Georgian legislation for antimonopoly regulation is appropriate for a market economy, but there have been serious problems in the enforcement of the legislation for a variety of reasons, including deficiencies in the mechanism of state law enforcement generally, a shortage of skilled lawyers and economists available to the government, and a high level of corruption in society. Efforts at addressing these problems, and work on specific amendments to the legislation itself, are continuing.

The State Antimonopoly Service of Georgia

The State Antimonopoly Service, under the Ministry of Economy of Georgia, is the government regulatory body with responsibility for enforcement of the antimonopoly law as well as the consumer protection and advertising law.

The principal tasks of the State Antimonopoly Service are to implement antimonopoly policy, to create and protect conditions favorable for the development of competition in Georgia and to carry out control over their observance (a task more important for the antimonopoly agencies of transition economies than for those of the developed countries), to ban monopoly activity, and to carry out state control over the protection of the rights of consumers and over advertising activity.

The important directions of activity of the State Antimonopoly Service are the analysis of markets to investigate possible restrictions of competition or instances of unfair competition (using information provided in complaints as well as other available information), and the issuing of appropriate decisions within its jurisdiction.

The decisions, resolution, instructions, and regulations, as well as other normative acts, adopted by the State Antimonopoly Service within its areas of competence, must be observed by Ministries and Departments of the government of Georgia, by regional and local bodies of government, by enterprises and organizations, regardless of their forms of ownership and organizational and legal status, as well as by individual entrepreneurs.

The State Antimonopoly Service of Georgia is guided in its activity by the Constitution of

Georgia, the laws “On Monopolistic Activity and Competition”, “On the Protection of Consumer Rights”, and “On Advertising”, resolutions of the Parliament, Presidential decrees and orders, and normative acts adopted in accordance with the above mentioned laws. The State Antimonopoly Service reports to the President of Georgia. The main source for financing of its activity is the central budget of Georgia, though activities may also be financed by special resources and grants.

The State Antimonopoly Service has wide rights and responsibilities. It is entitled:

- to propose to the relevant government body that an organization infringing the law be suspended or banned;
- to ask an organization that is infringing the law to cancel its illegal resolutions (otherwise to raise the issue with a higher body or officials);
- to demand from economic enterprises the abolishment of agreements executed and decisions passed in violation of antimonopoly legislation;
- in case of noncompliance with an order, to take legal actions to lodge a complaint with a court and to take part in the consideration of the case;
- to require the production of documents by economic enterprises concerning both their ownership relations and their economic activities;
- to measure the share of enterprises in merchandise and finance markets;
- and so on.

The staff of the State Antimonopoly Service numbers 150 persons, including 65 in the central office and 85 in twelve regional offices. The structure of the central body of the Antimonopoly Service includes:

- the department of antimonopoly regulation;
- the department of market analysis;
- the department of consumer rights protection;
- the department of the regulation of advertising;
- the department of international relations and the coordination of territorial offices;
- the legal department; and
- the department of administrative and budget activities.

For the execution of antimonopoly policy, article 17 of the law creates an Antimonopoly Council, consisting of 10 members including the chair, each with a term of office of five years. The members of the Council are to be representatives of ministries, consumer groups, business, and scientific organizations. Unfortunately the structure does not seem to work very well.

Typical problems of antimonopoly regulation

One of the main trends of activity of the State Antimonopoly Service of Georgia has been the creation and fulfillment of the legal and organizational bases for antimonopoly regulation and competitive policy. In addition, the Antimonopoly Service has systematically carried out premerger control as well as other preventive and prohibitive measures.

The application of antimonopoly expertise to legislation and regulation that would affect market competition -- so-called "competition advocacy" -- has a special place in the activity of the

Antimonopoly Service. Due to this activity, the adoption of many normative acts that might have restricted competition and the independence of entrepreneurs was avoided.

Control over the market behavior of monopolistic enterprises is also systematic, in order to avoid an abuse of their dominant position in the commodity markets. The terms of their contracts are subject of permanent antimonopoly control, in order to avoid any kind of compulsion and infringement of the legal interests of other economic enterprises and consumers. As a result, many cases of the abuse of a monopolistic position were revealed in the fields of telecommunications and post, of the transportation of goods by railway, of insurance, and of water and energy supply, and the offending enterprises and government bodies were obliged to cease their unlawful behavior. Many of the monopolistic enterprises were penalized.[4]

The most important activity of the State Antimonopoly Service of Georgia has been to discover and prohibit the improper payments and inappropriate market advantages that government agencies have provided to certain economic enterprises. As a result of the investigations of the Antimonopoly Service, it was revealed that a great number of draft laws and regulations violated article 10 of the antimonopoly law.

Another important activity of the Antimonopoly Service is the investigation of complaints made by both natural and legal persons.

Since 1997, the Antimonopoly Service has investigated more than one thousand possible violations of the antimonopoly law, the consumer protection law, and the advertising law. Hundreds of violations of the antimonopoly law alone have been revealed, and a significant portion of these were corrected voluntarily, according to the directions of the Antimonopoly Service. More than four hundred cases were passed to the courts.

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[4] As in other post-socialist countries, the Antimonopoly Service has been forced in many instances to act as a regulator of natural monopolies. See Janusz Ordover, Russell Pittman, and Paul Clyde, "Competition Policy for Natural Monopolies in a Developing Market Economy," *Economics of Transition* 2 (1994), 317-343, and the World Bank's *World Development Report 2001/2:Institutions for Markets*, forthcoming 2001. In Georgia, independent regulatory commissions have been created in the telecommunications and electricity and natural gas sectors, but their price-regulating functions have not yet been fully implemented.

An analysis of violations of the antimonopoly law reveals the following structure of infringements:

- monopoly activity, violation of article 13 of the law by economic enterprises, 31%;
- anticompetitive activity by government agencies and officials, violation of article 10 of the law, 27%;
- unfair competition, violation of article 9 of the law by economic enterprises, 17%;
- restriction of competition by agreements between economic enterprises, violation of article 8 of the law, 13%;
- violation of other articles of the law, 12%.

Thus the typical examples of violation of the antimonopoly legislation of Georgia are a) monopoly activity, b) adoption of anticompetitive decisions by the government, and c) unfair competition.

Typical violations of the antimonopoly legislation by monopolistic economic enterprises include the following: compulsion for entering into an agreement, establishing a monopoly price, creation of discriminating conditions to other market participants, insisting upon additional conditions and contract terms in which consumers were not interested and which were not directly connected with the object of the agreement, and so on. This analysis of the experience of antimonopoly enforcement suggests that, in addition to the generally known forms of monopoly activity such as price discrimination and establishing monopoly prices, Georgia's market is characterized by additional forms of monopoly activity.

The main forms of anticompetitive behavior of government bodies and government officials in Georgia have been the granting of a monopoly position to economic enterprise, establishing tax exemptions or other privileges for enterprises that give them advantages over competitors (or potential competitors), banning, suspending, or otherwise preventing economic activity or the independence of economic enterprises in cases other than those provided by legislation, and the creation of monopolistic state structures, or the granting to existing structures of such powers that lead to monopolization of the production or sale of goods or services.

It was characteristic of the beginning stages of privatization that a government decision would create new regional and inter-branch trade or management associations, "in order to improve the quality of production or service", "to increase revenues", and so on. In actuality many of these decisions had as their purpose preservation of the old *nomenklatura* acting under a new label, and led to the monopolization of the market.

Therefore, during the 1993-1995 period the investigation of the registration documents for new organizations and bodies was among the priority measures of the antimonopoly authorities.

The main source of information revealing violation of the antimonopoly legislation by government agencies and local government branches were the complaints of entrepreneurs. Unlike regulations of ministries and local governments which are not always submitted to the Antimonopoly Service for its opinion, drafts of laws and Presidential decrees are subjected to preliminary antimonopoly consideration. However, it is not rare for laws to be adopted notwithstanding a negative antimonopoly opinion, as a result of the activity of an influential lobby.

Violations of article 10 of the antimonopoly law of Georgia have been among the most difficult problems in the enforcement of competition policy. In our opinion, the seriousness of this problem can be explained by several different causes, among which the most important are the following:

- Many of the government officials are former state *chinovnics* (with old administrative skills of management, without either appropriate knowledge of the theory of a market economy or experience in a market economy. Therefore, they have been trying to preserve their influence over the independent entrepreneurs in sectors regulated (or controlled) by them;
- Many government officials have direct or direct interests in regulated enterprises (especially in the spheres of baking products, oil products, telecommunications, and other profitable fields of business activity). This is in spite of the fact that according to the law, government officials are prohibited from doing business in areas of their official responsibilities. It is not uncommon for businessmen to be members of Parliament and to hold important positions on parliamentary committees, or for them to work in the Chancellery of the President of Georgia;
- Managers of the surviving former soviet enterprises face serious economic, finance, and management problems. For example, they have lost their old soviet "direct markets", cannot produce goods that are competitive on export markets, and moreover have had serious problems on the domestic market because of entry by new players there. A lot of these enterprises have large amounts of excess production capacity and are directed by the same "red directors", with their old habits and skills, who directed them when they were state enterprises. These directors try to solve their problems using the old administrative methods to which they are accustomed, to preserve their shares of the market using relationships with government officials and other ways inappropriate to the market economy;
- Corruption levels are high, leading to the adoption of anticompetitive decisions by government (including local government) bodies and officials;
- Many of the successful new entrepreneurs are also trying to weaken their competitors by lobbying the government. According to our observation, cases of anticompetitive agreements among entrepreneurs, whether vertical horizontal, are less common than anticompetitive agreements between the same groups of entrepreneurs and government officials.
- There is sometimes a total disregard of the law. For the past five to eight years there have been a large number of both laws and Presidential decrees in Georgia that have gone completely unimplemented. The courts have little authority, and had less before reform.
- The mechanisms for implementation of Antimonopoly Service decisions are far from perfect, especially in cases involving government officials violating the law. IN such a situation, the antimonopoly body is entitled to raise questions only before the appropriate superior body or officials, but not before the courts. Such a procedure decreases the efficiency of the Antimonopoly Service, and in many cases the investigation and order end without any results.

The practice of the Antimonopoly Service in the area of unfair competition is increasing, especially in such areas as the misleading of consumers, the unauthorized use of the trademark and firm name of a rival, and the misappropriation of the shape, design, or packaging of goods of a rival or other third party. The illegal use of trademarks or registered firm names is most prevalent among these cases. It is very important for the State Antimonopoly Service to prevent unfair competition on the markets of Georgian mineral waters and wines both on the domestic and on foreign markets, especially in Russia and other CIS countries. Notwithstanding joint measures carried out together with the antimonopoly bodies of Russia, Ukraine, Uzbekistan, Belarus, and other countries, falsification and illegal use of trademarks of the mineral water “Borgomi” and such popular kinds of Georgian wines as “Xvanckara”, “Mucuzani”, and “Kindzmarauli” are among the most difficult practical problems for the implementation of competition policy.

Conclusions and suggestions

Antimonopoly regulation in Georgia began under absolutely different qualitative surroundings from that in the developed countries, where such regulation was made necessary beause of misuse of monopoly positions by the faster developing and more concentrated market forces. In Georgia, as well as in the other former Soviet Republics, the state antimonopoly regulation was started at the first stage of political and economic independence, together with the process of demonopolization of the national economy (which was overwhelmingly monopolistic), privatization of state property, and the liberalization of economic activity, including both foreign trade and domestic prices.

Therefore, besides the traditional antitrust tasks such as merger control, avoiding and prohibiting the misuse of a dominant position, and prohibition of unfair competition, new antimonopoly agencies in the post-communist countries have had the following specific problems, roles, and tasks: promotion of the demonopolization process, the building of legislative and methodological bases for enforcement, propogandist of the new competitive policy, protector of consumers, and so on. The priority of tasks has been changed in accordance to the tasks and stages of economic reform.

At the beginning stage of implementation of the measures of demonopolization and the creation of the organizational and legal bases for business activity, the especially urgent tasks were the creation of the conditions for the development of fair competition, and the protection of entrepreneurs from any kind of unfounded prevention or restriction of their economic activities. At the same stage of reform, the Antimonopoly Service of Georgia played an important role as an advocate for the development of market forces and as an opponent of anticompetitive behavior of other administrative bodies. As can be seen from more recent practice, some of these older tasks are important today as well.

The results of analyzing the violations of the antimonopoly legislation of Georgia for the last few years show that the especially urgent problem is the activity of the “state bureaucratic monopoly” -- the restriction of competition by the activities, direct or indirect, of government bodies

and officials: the same problem that, as we know, is urgent for every post-communist country. The acuteness of this problem is directly connected with the level of corruption (which is very high in Georgia), the atmosphere of non-punishment, common problems of government management, and the inability of the Antimonopoly Service to forestall anticompetitive behavior by the other state and admistrative institutions, for reasons such as inadequate ambition, responsibilities demanding greater status, and the inefficiency of existing enforcement mechanisms.

One of the most important problems is the unjustified lengthy consideration of the cases by courts (often over periods of months), together with the great number of court decisions adopted but unimplemented. We hope that after successful judicial reforms (in 1999) this issue will become less problematical.

Moreover the Antimonopoly Service of Georgia, as the main player in antimonopoly regulation, has had a series of legal and organsational problems of its own, including the strain of deficits of both financial resources and skilled employees -- economists and lawyers. (This is a common problem for the Georgian Government; it is typical for the best specialists from Government to move to private structures and foreign institutions, for reasons including low salaries and bad working conditions.)

In such a situation we are faced with the following tasks:

- to improve the mechanisms of preliminary state control, including the application of antimonopoly expertise of the drafts of legislation and regulations. All drafts of these normative acts concerning to the economic activity must be subject to preliminary antimonopoly examination, and approval by the antimonopoly authority should be among the obligatory requirements for registration by the Ministry of Justice.
- to improve the mechanisms for licensing, state purchasing, and other state economic functions, especially considering limited state resources. It is also necessary to strengthen the antimonopoly requirements concerning open tenders and large privatization projects.
- the measures of punishment (administrative, financial and criminal measures) of the violators, including government officials, must be clearly defined;
- any kind of commercial activity and organizations must be divestedfrom all government institutions.
- to strengthen the status of the Antimonopoly Service of Georgia (up to the level of a Ministry of Georgia)
- the process of investigation and prosecution and the legal provisions of the procedural code should be clearer, because Georgia's courts haven't enough experience and appropriate skills for the consideration of cases on competitive policy. The precedent practice has not been efficient in Georgia (unlike in America).
- It is especially urgent to solve the financing problems of Government agencies, in order to attract and keep qualified employees and to raise the efficiency of management. Otherwise, there will be a permanent deficit of qualified and honest specialists (as presently) in the government, especially in the controlling bodies (including the State Antimonopoly Service of Georgia). Working without

appropriate salary (with a pioneer's enthusiasm) for a long time is illogical and unattractive, and looks like the traditional socialist appeal to work only for the ideals (in accordance to our long socialist experience).

The Antimonopoly Service of Georgia should focus its attention on such problems as: developing notification and registration systems for mergers and acquisitions; dismantling barriers to entry; improving work with the mass media, which must be more transparent; improving cooperation with legislative and executive bodies of Georgia, as well as with international organizations for the solution of legal, technical and financial problems related to antimonopoly regulation and consumers rights protection, etc. Moreover the Antimonopoly Service and its regional offices should more actively oppose the anticompetitive activities of other government institutions.

Finally, and notwithstanding some other opinions about antimonopoly regulation in Georgia, Georgia has antimonopoly legislation and mechanisms for its implementation, and an organizational base as well, appropriate to the market economy. In spite of the above mentioned problems there are some positive results too. The increasing number of letters and complaints of entrepreneurs and consumers (expecting the support of the agency) indicates their trust and the increasing prestige of the State Antimonopoly Service of Georgia.

In our opinion, despite the important negative influence of the above mentioned typical problems of the enforcement of antimonopoly legislation, the problems themselves are also demonstrating that free market competition in Georgia exists and is developing.