have been under 30%, but the Office was concerned that the merged firm would have had advantages such as nationwide service, a wide range of products and superior negotiating strength that might drive others out of the market and enable it later to raise prices. The Office also found that reducing the number of important competitors itself represented an anticompetitive distortion of the market structure. The Office did not believe that the chains had alternatives at the time of the merger; however, within two years some of the chains had set up their own in-house bakeries. The other rejected merger would have reduced the number of firms in the markets for industrial and household sugar from three to two. The firms were also major factors in nearby geographic markets (which were considered separate because of heavy regulation in each country) and in alternative industrial sweeteners. The Slovak competition office also rejected the merger, and the Hungarian competition office insisted on strong conditions. Facing opposition from the national competition agencies in the markets affected, the parties eventually abandoned their plans.

Restructuring and privatisation of the electricity and natural gas sectors were the most important and difficult merger decisions the Office has addressed. During the deliberations over the plan for restructuring the electricity sector, the Office objected to re-establishing a monopoly through the distribution level, but it lost the argument. The Office allowed ČEZ to buy most of the regional electricity distribution companies. Despite the government backing for the overall plan, the Office nonetheless imposed some conditions on its approval of the ČEZ acquisitions. The first condition was partial divestiture of its interest in the monopoly transmission grid. The second was to sell its partial share in three power companies. The third was to divest one of the five distribution firms it acquired to a third party, so that ČEZ would hold four of the eight regional distributors. The last condition failed, though. The firm was not divested, and the condition was ultimately withdrawn and replaced by a duty to create "virtual power plants" to make energy available in the wholesale market.

In natural gas, ÚOHS approved a transaction that created a vertically integrated national monopoly. The merger of RWE Gas AG with Transgas combined the monopoly importer and transmission system with six of the eight regional distribution companies. The principal condition of approval was that the new firm could not acquire the country's only gas producer, which was significant principally because this producer's gas field could be used for storage. In addition, the new firm was barred from making acquisitions or investments in the electric power and heating sectors during a five-year transition period,

until 2007, anticipating that those sectors would be liberalised by then. Current controversies over access to storage show that the conditions were not sufficient to protect competition and that the Office's expectations about how formal liberalisation would lead to real competition may have been unrealistic.

Several major privatization transactions have been reviewed by the Office. Except in the network utility sectors, none have raised substantial competition issues. Most amounted to new entry, as assets were taken over by firms and investors from other markets. The combination of Société Générale and Komerční banka was a friendly takeover, for example. One heavy industry privatisation led to competition disputes later: when a steel firm was privatised, fabrication was split into two firms, and one of them remained as part of an integrated operation. Non-integrated fabricators complained about a margin-squeeze, and the integrated firm asked the Office for negative clearance about its pricing practices.

The Office is working on guidelines about notification and substantive analysis. The guidelines about notification issues are expected to be issued in late July 2008. They will address technical questions about calculation of turnover and the definitions of the types of parties and transactions subject to the notification obligation. The Office is also planning guidelines about the criteria for assessing impact on competition, so parties will have a better idea of the Office's likely views about their transactions.

An amendment to the Competition Act about merger review is now in preparation. In one respect, it will bring merger review closer to the processes used for other competition matters, by introducing the formal "statement of objections" step if the Office wants to block a merger or impose conditions. For certain types of combination that rarely raise problems, the process will be simplified. The time for deciding whether to proceed to a full phase two investigation will be shortened from 30 days to 20 days. The kinds of transactions that are implicitly deemed unlikely to affect competition, because they will be subject to this simplified procedure, are changes of control, conglomerate mergers, vertical mergers involving combined market shares below 25% and horizontal mergers involving combined market shares below 15%.

2.6 Procurement and state aid

Public procurement has been a responsibility for the Office since 1995. The policy goal of this regulatory program is to ensure that public funds are being used appropriately and economically. The subject is

important because the amount of money involved is large. Procurement rules apply particularly to public entities, to entities awarding contracts supported by public funds and to public entities or others exercising exclusive rights in public service sectors such as natural gas, heating, electricity generation, water, public transport, ports and airports, postal services and fuel exploration and extraction. When the Office finds a violation involving a contract that has not yet been implemented, it can cancel the tender process or order a new one. Otherwise, the principal sanction is a fine. The legislation that was adopted in 2004, to conform to EU norms at the time of accession, was revised in 2006. The two laws on public contracts and on concession contracts and procedures transpose directives about procedures for award of contracts in general and in the key sectors of water, energy, transport and postal services.4 The new laws expand coverage to smaller public contracts and provide for simpler and more flexible procedures (among other things). Another EU Directive issued in 2007 will require a further amendment to the Czech law. This recent action amended older directives about remedies and procedures dating from 1989 and 1992. Notably, contracts that result from particularly serious breaches may be declared void.

The potential synergy between procurement oversight and enforcement against bid rigging has been recognised. It was noted, for example, in the 2001 Review. But few, if any, bid rigging cases under the Competition Act have been developed based on ÚOHS experience with regulating procurement. Procurement regulation is a major part of the ÚOHS workload, but it is not integrated into the rest of the operation. The procurement section will be the last one to relocate from a different building to join with the rest of ÚOHS in its new headquarters.

The Office is no longer responsible for enforcement concerning state aid. When the Czech Republic became part of the European Union in 2004, enforcement responsibility for state aid matters shifted to the European Commission and the corresponding parts of the Czech competition law were eliminated. The Office was assigned responsibility for enforcement in this area in 2000. The subject had previously been handled by the Ministry of Finance. The Office has maintained a state aid staff since 2004 to advise Czech authorities and firms about compliance with EU regulation.

4 Act No. 137/2006 on Public Contracts, and Act No. 139/2006 on Concession Contracts and Concession Procedures; Directive 2004/18/EC and Directive 2004/17/EC.

2.7 *Unfair competition*

Unfair competition rules are treated as matters of private law.[5] A general clause in the Commercial Code defines unfair competition as conduct contradictory to good manners of competition and capable of causing damage to other undertakings or consumers. The list of types of unfair competitive conduct includes misleading advertising, deceptive labelling, bribery, disparagement of a competitor, infringement of trade secrets and endangering the health of consumers or the environment. Links to competition law and policy are not clearly recognised. The Office has had few occasions to examine whether remedies against allegedly unfair practices might dampen legitimate competition.

Disparity in bargaining power is not part of the Competition Act now, but ÚOHS believes that law is needed to deal with firms that unilaterally extract favourable business terms in contracts with partners, even though they do not have a dominant position in a market. ÚOHS claims that abuse of partners' economic dependence may lead to serious distortions of competition. ÚOHS proposed a law incorporating the principle, but it withdrew its support after Parliament amended the bill to expand the scope of liability for accepting an offer of a discriminatory price. In general, ÚOHS objected to measures that would have amounted to a new ban on sale below cost, since that topic is already covered by the Competition Act prohibition against abuse of dominance and by the Price Act. Following the ÚOHS advice, the President vetoed the bill in June 2006. Parliament is now considering rules about fair trading that would apply to retailers with net turnover in excess of CZK 2 billion, that is, to supermarket chains.

2.8 *Consumer protection*

The relationship between competition policy and consumer protection policy is reasonably well understood but not well implemented. Consumer policy about contract fairness, product safety and advertising and marketing is set by the Ministry of Industry and Trade. The enforcement agency is the Czech Trade Inspection. In addition, the Ministry of Agriculture sets standards for food products, which are enforced by the State Agriculture and Food Inspection and the State Veterinary Administration, the Ministry of Regional Development is responsible for consumer issues in the travel sector, the Ministry of Health Care deals with pharmaceuticals, toys, cosmetics

5 Commercial Code No. 513/1991 Coll., as amended; and the Rules of Civil Procedure No. 99/1963 Coll., as amended.