



Report name	Issued recommendations	Execution status
Systemic report "Challenges and problems in the sphere of competition protection and oversight"	To make sure that the AMCU's e that annual plans, prepared by the AMCU, clearly specify (i) the main priority areas of the AMCU's activities for the forthcoming year; and, where relevant, (ii) markets that will be subjected to comprehensive studies. Antimonopoly Committee of Ukraine	Implemented — comments: Please see, in particular, the AMCU's Annual Report for 2017 (approved by the AMCU's Regulation dated 28 February 2018 No.5—pn). Furthermore, at the official AMCU's website is indicated the Action plan on drafting regulatory acts for current year.
	To adopt legislative amendments aimed at unleashing the AMCU's existing institutional capacity. Antimonopoly Committee of Ukraine	In process — comments: The relevant Draft Law No.6724 dated 14 July 2017 "On amending certain laws on protection of economic competition" has been adopted in the 1-st hearing on 9 November 2017.
	The AMCU's advocacy activities has to be broadened by (i) strengthening cooperation with other government bodies; and (ii) improving existing practice of issuing practical recommendations based on the prior market studies performed by the AMCU. Antimonopoly Committee of Ukraine	In process — comments: The AMCU continues work aimed at improving cooperation with the state authorities, in particular by signing memorandums and holding public events (conferences).
	To develop a roadmap aimed at implementing the NCDP Concept for 2014-2024 by the ministries and other state bodies. Antimonopoly Committee of Ukraine	In process — comments: Currently the AMCU is elaborating an Action plan focused on implementation of the National Concept on Competition Development in Ukraine for 2014-2024. The relevant draft shall be prepared and submitted to the CMU until the end of 2018.
To accelerate working relations between the AMCU and the state authorities (with the focus on sectoral regulators) by expanding the practice of entering into respective cooperation agreements/memorandums on competition-related issues. Antimonopoly Committee of Ukraine	In process — comments: The AMCU has signed memoranda on cooperation with the National Commission, which carries out state regulation in the fields of energy and utilities, the Ministry of Agricultural Policy and Food as well as with the State Service of Ukraine for food safety and consumer protection.	

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	<p>In order to facilitate effective exercise of powers vested with the AMCU in connection with anti-trust clearance of privatization transactions, ensure that not only the AMCU itself but also other authorities should play active role in eliminating some of the existing impediments. Hence, the Council recommends as follows: a) To specify the exact scope of duties to be borne by each institution involved into privatisation process (for instance, the SPF, sectoral regulators, etc.). b) To introduce transparent procedure for the exchange of information between the AMCU and the relevant bodies (including the SPF, the regulators managing the state enterprise, bidders, etc.) for the purpose of the AMCU's transaction clearance. If such an approach were to be employed (for instance, between the AMCU and the SPF), this would help addressing allegation of the business that the SPF might provide inaccurate or incomplete information about the potential target.</p> <p>Antimonopoly Committee of Ukraine Verkhovna Rada of Ukraine State Property Fund of Ukraine</p>	<p>In process — comments: On 18 January 2018 the VRU adopted the Law of Ukraine No.7066 "On privatization of state and municipal property (the Law No.7066)", which entered into force on 7 March 2018 and which, among other things, further specifies the powers of state authorities in the field of privatization.</p>
	<p>To amend the Procedure of Notifying the AMCU for Prior Approval of Concentration of Undertakings to ensure that consideration of consent on concerted actions due to execution of non-competition agreement is conducted on the basis of simplified procedure, provided that receipt of concentration consent is already carried out on the basis of simplified procedure.</p> <p>Antimonopoly Committee of Ukraine Verkhovna Rada of Ukraine</p>	<p>In process — comments: Currently, the AMCU is elaborating the draft law on amending the Law of Ukraine "On protection of economic competition" in respect of procedure for obtaining the prior approvals of concentrations.</p>
	<p>To amend Article 52, para. 2, part 2 of the Competition Protection Law to ensure clear identification of parties liable for failure to notify about concentration.</p> <p>Antimonopoly Committee of Ukraine Verkhovna Rada of Ukraine</p>	<p>In process — comments: Currently, the AMCU is elaborating the draft law on amending the Law of Ukraine "On protection of economic competition" in respect of procedure for obtaining the prior approvals of concentrations.</p>
	<p>To expressly provide that if an applicant were to withdraw its' application in a case on abuse of monopolistic (dominant) position, this shall not constitute the substantial ground for the AMCU to exercise its' procedural discretion to terminate consideration of a case. Hence, the respective amendments are proposed to be introduced to the Rules of Consideration of Applications on Violation of Competition Legislation. In the Council's view, it should allow minimizing the risk of possible pressure inflicted on an applicant by an undertakings occupying monopolistic (dominant) market position in whose relation the respective case has been launched.</p> <p>Antimonopoly Committee of Ukraine</p>	<p>Not started — comments: Currently the AMCU does not uphold the BOC's recommendation.</p>

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	<p>To adjust the AMCU's internal decision making procedure to ensure that when rendering an initial decision on its' merits falls under the authority of the AMCU's Board of Commissioners, the adoption of such a decision shall require majority of the AMCU's composition established by law (i.e., 5 persons), save for the Commissioner who investigated the case. The latter, nonetheless, should remain to be involved into decision making process by being entitled to present results of investigation during the respective procedural hearing.</p> <p>Antimonopoly Committee of Ukraine</p>	<p>In process — comments: The recommendation is reflected in the Draft Law No.6746 (amendments to the Article 48 of the Law of Ukraine "On protection of economic competition").</p>
	<p>The AMCU, prior to the adoption of the Methodology for calculating the amount of fines, to carry out monitoring of application of the existing Recommended Explanations and regularly (at least once per quarter) publicize information about its' practical application.</p> <p>Antimonopoly Committee of Ukraine</p>	<p>In process</p>
	<p>To implement the practice of periodic aggregation and publication of the main substantial content of individual recommendations issued by the AMCU in the form of non-binding informational letters.</p> <p>Antimonopoly Committee of Ukraine</p>	<p>Implemented — comments: Currently, the AMCU publishes the content of individual recommendations, issued to the business entities. For instance, the AMCU publishes the Generalized Explanations in the sphere of state aid, completed following examination of the most common questions in respect of the Law of Ukraine "On State Aid to Undertakings".</p>
	<p>To introduce electronic database that would enable applicants to retrieve general information about the current status of consideration of requests/applications lodged with the AMCU, which is not confidential in nature.</p> <p>Antimonopoly Committee of Ukraine</p>	<p>In process — comments: Although the AMCU has generally supported the BOC's recommendation, it emphasized the need to allocate additional funding in order to implement the recommendation.</p>
	<p>To amend Article 40 of the Competition Protection Law in order to: a) set maximum time limits for (i) responding with further explanations and/or clarifications requested by the AMCU; and (ii) lodging objections by the parties that disagree with the AMCU's interim procedural decisions in cases on mergers/ concerted actions; b) establish specific/maximum time limits for the AMCU's consideration of requests on access to the case materials lodged by the parties; c) expressly enable interested parties to lodge requests with the AMCU to seek initiation of hearing on concentrations/concerted actions, with such requests being subject to the AMCU's mandatory consideration and provision of grounded answer within reasonable time limits.</p> <p>Antimonopoly Committee of Ukraine Verkhovna Rada of Ukraine</p>	<p>In process — comments: The AMCU will consider the possibility for implementation the aforesaid recommendation during preparation of the next set of amendments to legislation.</p>

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	<p>To amend Article 18, para 10 of the Law of Ukraine "On Public Procurements" to enable complaining bidder or any other participant of the appeal procedure to submit additional documents related to the merits of the complaint. Antimonopoly Committee of Ukraine Verkhovna Rada of Ukraine</p>	<p>Implemented — comments: The relevant amendments to the clause 10 of the Article 18 of the Law of Ukraine "On Public Procurements" is currently being drafted by the AMCU. It is planned that the MEDT would submit the foregoing draft with VRU in 2018.</p>
	<p>To continue enhancing awareness amongst state and municipal authorities and business about the substance of the forthcoming legal framework on state aid and the general implications stemming therefrom. Antimonopoly Committee of Ukraine</p>	<p>Implemented — comments: In August 2017, the separate Department on State Aid was formed at the AMCU. The Department in particular, provides explanations on the implementation of state aid legislation to the undertakings. Furthermore, the AMCU permanently conducts the relevant public events (220 events in 2017). In addition, due to the numerous letters from central and local government agencies, on 5 October 2017, the AMCU issued an explanation on the implementation of the state aid legislation No.35-pp/dd, which provides answers to the most common issues regarding the implementation of legislation in the field of state aid.</p>
	<p>To maintain active dialogue with both providers and beneficiaries of state aid to discuss existing and contemplated policy choices in the field. Antimonopoly Committee of Ukraine</p>	<p>Implemented — comments: With the enactment in full of the Law of Ukraine "On State Aid to Undertakings", the AMCU with the support of the EU International Technical Assistance Project in August 2017 prepared and implemented the Information and Analytical System "Register" (electronic platform). The "State Aid Portal" was created to collect information on current and new state aid, it contains a register of state aid, a register of decisions, a register of cases, etc. Using the portal, it is convenient to provide information on state aid.</p>
	<p>To ensure that pending secondary legislation is both available and adequate from both procedural and substantial standpoint. In particular, to ensure compliance with Article 6 of the State Aid Law, the CMU shall adopt: a) Resolutions on provision of state aid in specific areas (i.e., regional development; support of small and medium business development; employees' professional development; reorganization and restructuring of undertakings; development of certain branches of economy, etc.); Cabinet of Ministers of Ukraine Antimonopoly Committee of Ukraine</p>	<p>Implemented — comments: Nowadays, the Cabinet of Ministers of Ukraine has approved the majority of the Criteria for the admissibility of state aid: 1) Criteria for assessment the admissibility of state aid to business entities for the training of employees (Resolution of the CMU dated 11 January 2018 No.11); 2) Criteria for assessment the admissibility of state aid to business entities for the employment of certain categories of employees (Resolution of the CMU dated 31 January 2018 No.33); 3) Criteria for assessment the admissibility of state aid for restoring solvency and restructuring of business entities (Resolution of the CMU dated 31 January 2018 No.36); 4) Criteria for assessment the admissibility of state aid to business entities to ensure the development of regions and support of medium and small businesses (Resolution of the CMU dated 7 February 2018); 5) Criteria for assessment the admissibility of state aid to business entities for carrying out scientific research, technical development and innovation activities (Resolution of the CMU dated 2 June 2018). Currently, the Criteria for the admissibility of state aid for the protection of the environment and for supporting coal industry are being drafted.</p>
	<p>Methodology for calculating amount of state aid. Cabinet of Ministers of Ukraine Antimonopoly Committee of Ukraine</p>	<p>In process — comments: The draft document is currently being approved with the Energy Community, as requested by the Electricity Market Law.</p>
	<p>Procedure for illicit state aid's recovery. Cabinet of Ministers of Ukraine Antimonopoly Committee of Ukraine</p>	<p>Implemented — comments: The CMU Resolution No.468 dated 4 July 2017.</p>
	<p>To improve both scope and quality of information due to be received from aid providers the AMCU is recommended to intensify its' advocacy activities aimed at clarifying existing procedure for notifying AMCU about state aid, including, inter alia, by disseminating respective reporting templates. Antimonopoly Committee of Ukraine</p>	<p>Implemented — comments: Due to the numerous letters from central and local government agencies, on 5 October 2017, the AMCU issued an explanation on the implementation of the state aid legislation No.35-pp/dd, which provides answers to the most common issues regarding the implementation of legislation in the field of state aid.</p>
	<p>To promptly start inventory of state aid Measures subject to availability of the relevant and properly tested material base (hardware and software). Antimonopoly Committee of Ukraine</p>	<p>Implemented — comments: With the enactment in full of the Law of Ukraine "On State Aid to Undertakings", the AMCU with the support of the EU International Technical Assistance Project in August 2017 prepared and implemented the Information and Analytical System "Register" (electronic platform). The "State Aid Portal" was created to collect information on current and new state aid, it contains a register of state aid, a register of decisions, a register of cases, etc. Using the portal, it is convenient to provide information on state aid.</p>

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Systemic report "Natural monopolies vs. competitive business: how to improve relations"	<p>To perform permanent explanatory activities aimed at informing the licensees on elimination of the revealed monopoly abuses. National Energy and Utilities Regulatory Commission Antimonopoly Committee of Ukraine</p>	<p>Implemented — comments: As reported to the Council by the NEURC, when considering the complaints lodged by the individuals and/or legal entities, carrying out state supervision (control) measures, the latter conducts explanatory work with the licensees to prevent any abuse of their monopoly position (compliance with the relevant licensing conditions). Also on 29 September 2016 the Memorandum on strengthening cooperation in electricity and natural gas markets and in the fields of heat-, water supply and sewage between the AMCU and the NEURC was signed: http://www.amc.gov.ua/amku/control/main/uk/publish/article/130144;jsessionid=847042A438B05A2E8334164C53780D1B.app1 However, the Council is not aware of the nature, frequency, and efficiency of measures taken by the NEURC, jointly with the AMCU within the framework of the Memorandum implementation.</p>
	<p>To ensure that the situation is analyzed on a regular basis and that licensees duly fulfil their duties. Antimonopoly Committee of Ukraine</p>	<p>In process — comments: As it is set forth in the Memorandum, concluded between the AMCU and the NEURC, they agreed, among other things, (i) to exchange information on problematic issues in the markets of electricity, natural gas, heat-, water supply and sewage for ensuring the possibility of taking prompt actions aimed at their settlement within the limits of their competence, (ii) create an efficient competitive environment for introduction of new models of electricity, natural gas, heat-, water supply and sewage, simplifying the procedure of hooking-up services provision: http://www.amc.gov.ua/amku/control/main/uk/publish/article/130144;jsessionid=847042A438B05A2E8334164C53780D1B.app1 However, the Council is not aware of the nature, frequency, and efficiency of measures taken by the NEURC jointly with the AMCU within the framework of the Memorandum implementation.</p>
	<p>To hold consultations with licensees, experts and the public on issues regarding hooking-up of producers and consumers to heating networks and ways to resolve them. National Energy and Utilities Regulatory Commission Ministry of Regional Development, Construction and Residential Services Antimonopoly Committee of Ukraine</p>	<p>In process — comments: The NEURC in cooperation with the consultants of the USAID Municipal Energy Reform is working on drafting relevant regulatory documents for hooking up to centralized heating supply system. Within the framework of this USAID project, the NEURC's specialists are members of a working group on the development of the procedure (methodology) for hooking up to heat networks, calculation of the hooking-up fee and financing of hook-up services, etc. The said procedures (methods) are not yet approved and therefore relevant consultations should continue to be carried out, if necessary</p>
	<p>To determine what is a "fair price" for the hooking-up service and prevent an abuse. Antimonopoly Committee of Ukraine</p>	<p>Implemented — comments: At present, basic requirements and conditions for calculating the charge for hooking-up the customers' objects to gas transmission or gas distribution systems are specified in the Methodology for setting the hooking-up fees for the gas transportation and gas distribution systems, approved by the NEURC on 24 December 2015 No.3054: http://zakon2.rada.gov.ua/laws/show/z0396-16 The provisions of the above Methodology provide for, in particular, the establishment of transparent and non-discriminatory conditions for determining the fee for standard/non-standard hook-ups, ensuring possibility of determining hook-up service cost at the stage of business planning, preventing abuses by GTS/GDS operators while determining the cost of services for hooking up such objects.</p>
	<p>To improve responsiveness to complaints from customers. National Energy and Utilities Regulatory Commission Antimonopoly Committee of Ukraine</p>	<p>Implemented — comments: On 31 August 2017, the NEURC's Draft Resolution "On Approving the rules for settlement of disputes arising between business entities operating in the spheres of energy and utilities" was published on its official website: http://www.nerc.gov.ua/?id=27182</p>