

Competition Council

Achivements and Perspectives

1/2



Abstract : The competition policy represents an essential element in creating proper conditions needed for a sustainable economic growth and implicitly for consumer's welfare. The increasing number of opened investigations, the surveillance market activity, the fines applied as well as the economic concentrations control highlight the pro-active attitude of the Competition Council in exerting its attributions set by the national and European legal framework.

Key words: Competition policy, enforcement, consumer's interest

As it is known, the competition policy represents an essential element for the creation of proper conditions necessary for a sustainable economic growth and implicitly for consumer's welfare.

The market economy principle do not suppose the existence of a passive attitude in relation to the market functioning, on the contrary, it supposes a permanent supervision in order to allow market mechanisms to function properly. The liberal economic theory presents competition policy as a system of laws and rules having as goal the creation of a perfect competition market as well as preventing the creation of monopoly and oligopoly that impose their prices in the consumer's detriment.

In actual context of economic-financial crisis, the guaranteeing of a normal competitive environment is a major objective, but very difficult for all states and competition authorities. Mario Monti, former European Commissioner on Competition underlined the same idea stating that "in a time of changing, between the enforcement of competition policy and the consumers' interests there is a stable relation".

In this context, the Competition Council connected to the Romanian economic situation as well as to the international mechanisms and practices, is bound to impose, in a more aggressive manner, the observance of the competition rules.

The increasing number of opened investigations, the surveillance market activity, the fines applied as well as the economic concentrations control, all these highlight the pro-active attitude of the Competition Council in exerting its attributions set by the national and European legal framework.

The banking sector was and will further be in the attention of the Competition Council: the investigations ongoing, permanent monitoring of the sector and initiation of new investigations allow the normal functioning of market mechanism in this field.

Moreover, the Competition Council involved itself and supported the National Authority for Protection of Consumers in promoting the draft of Emergency Ordinance for transposing the provisions of Directive 2008/48/ EC on credit contracts for consumers. The legislative initiative stipulates the extension of the domain of application of the Directive on the early reimbursement of credits by the elimination or limitation of commissions for any kind of variable interest credits.

The Prim Minister Emil Boc which has participated in the Competition Council's Conference at the end of April, has stated that the above draft shall be approved by the Government taking into consideration that this is "adapted to the national economy's specificity, shall stimulate competition in the banking sector and shall have positive effects for all Romanians that have concluded credit contracts".

Market monitoring represents an important activity of the competition authority. In this respect, there were opened new sector inquiries on the following markets: maritime transportation services, milk marketing within the producer-processor chain, spare parts for motor vehicles, en gross distribution of medicine and electricity power.

For the first time, the Competition Council has launched in October last year a public debate on the Report on competition in some key sectors of the national economy. The report was elaborated in collaboration with Romanian Academic Society and aimed at identifying the problems in seven key sectors of national economy such as: banking, energetic, concessions- mineral resources, pharmaceutical, liberal professions, taxi services and retail from the perspective of competition - competitiveness - final consumer's welfare relation. At the same time, this report contains a series of recommendations for decision makers in order to take all measures necessary for the elimination of any barriers against normal functioning of the respective sectors.

Achivements and Perspectives

2/2

The evolution of some markets, i.e. energetic sector indicates the necessity of cooperation with decision makers - Ministry of Economy and Trade, regulating authorities in order to identify the best solutions for the energetic sector from the viewpoint of competition rules.

This demonstrates one more time that the struggle for the creation of a competitive environment means more than just sanctioning anti-competitive behavior of the market actors, but a common effort of all those involved – actors and arbitrators– with a view towards ensuring the citizen's welfare as final consumers of goods and services.

Further to the modification at European level, the Competition Council has modernized the application norms of the leniency policy in Romania. Thus, the leniency policy is applied also to serious vertical agreements such as fixing the re-selling price or absolute territorial protection, even though these are not considered cartels. At the beginning of this year, a Leniency Module has been set up and it is in charge with ensuring the interface between the competition authority and the companies that apply for leniency.

According to the leniency policy, the Competition Council could grant immunity from fines to an undertaking part of a cartel that is the first to submit evidences on the cartel existence or could grant a reduction of fines to other companies which are parts of the cartel submitting information about the cartel. The result of these actions is the destabilization of the cartel's activity. The European Commission has enforced this policy successfully.

Another field the Competition Council focuses its attention is that of tenders. The Government is very attentive to tenders; there are institutions supervising the bid specifications and the way the tenders are organized, but there was no structure to analyze the possible agreements among participants in the tenders. For this reason, the Competition Council set up a new unit in charge with finding out the bid riggings.

In order to identify the dysfunctions in the field of tenders, the Competition Council has concluded Protocols of cooperation with institutions having attributions in the tenders' field such as National Authority for Regulating and Monitoring the Public Procurement and National Council for Solving Complaints. The effects of dysfunctions in the tenders' field could be found at the level of involved undertakings, especially at the works quality as well as at the level of public funds management.

The direct contact of competition authority with European Commission's representatives has allowed the identification of solutions and finding the answers to the state aid problems. Thus, the intensification of cooperation with European structures represents one of main goals of the Competition Council's activity; the exchange of information, technical and informal discussions are efficient ways for solving those cases considered sensitive.

The permanent functional cooperation with the Government has concretized in modification of Government Decree no. 1361/2006 on the content of the presentation and motivation tool of draft normative acts sent to Government, by introduction of the obligation to assess the impact of the normative acts over the competition and State aid field.

In order to support all factors having attributions in the State aid field, there was adopted the Government Decree no. 98/2010 on setting up "The Interministerial Council for appliance of State aid policy" as an advisory body, without legal personality, having the role of integration, correlation and uniform application of European principles on granting State aids by all involved institutions as well as of monitoring the impact of State aid policy.

The Competition Council has carried out an intensive activity in the international relations domain. Thus, the renewal up to the end of 2011 of the Observatory Status of Romania within the OCDE working structures on competition represents the recognition of the activity and efforts of the authority in applying the competition policy.

The experience and expertise of the Competition Council's experts have contributed to the selection as partner, along with the competition authorities of Latvia and Austria, in a Twinning Project having as beneficiary The National Agency for Protection of Competition.

This accomplishment is a great success as it represents a real opportunity to consolidate the cooperation relations with the Moldavian National Agency for the Protection of Competition (NAPC) as well as with other partners in the competition field. In addition, it gives us the possibility to support NAPC in its effort to strengthen the administrative capacity and to follow the European Commission's recommendation contained in the EU - Moldavia Action Plan in the competition and state aid field.

The positive trend developed lately obliges us to further continue and even to intensify our efforts as surveyor and guarantor of the functioning mechanism of market economy.

Ph. D. Bogdan M. Chiritoiu
President of the
Competition Council