

Main Results in Romanian Antitrust Domain, Period 2010-2014

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Abstract

The paper “Main results in Romanian antitrust domain, Period 2010-2014” presents the most important activities rolled by the Competition Council in our country regarding the analysis of market concentration, sectorial and study analysis or analyzing any possible break of the law. Starting from the main undergoing activities, the mission of Competition Authorities for the next years will be to apply efficient measures to maintain an adequate competition environment, taking into account an efficient and dynamic economy, grounded on recognizing and respecting the values and principles of competition, as a progress factor, durable development and well-being.

Key words: competition, investigation, sectorial analysis, anti-competition practice.

J.E.L. classification: D40, D41

1. Introduction

Competition policy represents, at microeconomic scale, one of the most important instruments that the State has at its disposal to influence the dynamics of the market, for the purpose of increasing their effectiveness and to maintain a balance between the interests of consumers and those of the economic operators.

One of the tools by which the competition authority may get and can generate sustainable benefits for consumers is intervention in making and reforming laws and regulations from a competition view point.

Pro-competition reforms are aiming at the identification of measures that restrict competition and highlight alternatives that lead to the achievement of the social and economic general objectives, producing at the same time, less harmful effects on competition. Such approaches have as results increases in productivity, better employment and promoting investments.

In 2011, the Competition Law has been enhanced, both from the perspective of law enforcement tools, as well as in respect of certain procedural aspects.

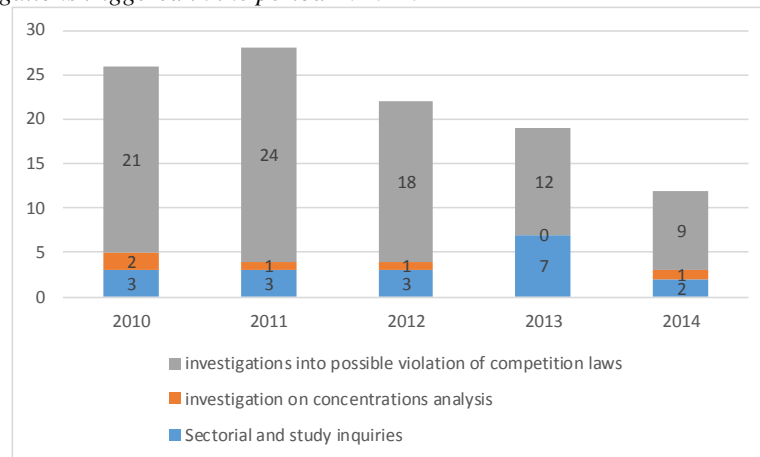
2. Main results in antitrust domain

In the period 2010-2014, the competition Council has triggered a series of investigations on the analysis of concentrations, sectorial analysis and study or possible violation of competition laws, as follows:

- In the year 2010 have been triggered 3 sectorial and study inquiries, 2 investigations on concentrations analysis and 21 investigations into possible violation of competition laws;
- In the year 2011 have been triggered 3 sectorial and study inquiries, 1 investigation on concentrations analysis and 24 investigations into possible violation of competition laws;
- In the year 2012 have been triggered 3 sectorial and study inquiries, 1 investigation on concentrations analysis and 18 investigations into possible violation of competition laws;

- In the year 2013 have been triggered 7 sectorial and study inquiries and 7 investigations into possible violation of competition laws;
- In the year 2014 have been triggered 2 sectorial and study inquiries, 1 investigation on concentrations analysis and 9 investigations into possible violation of competition laws;

Figure 1. Investigations triggered in the period 2010-2014



Source: Competition Council- annual report 2014, page 8 available at http://www.consiliulconcurentei.ro/uploads/docs/items/id10061/raport_anual_2014.pdf

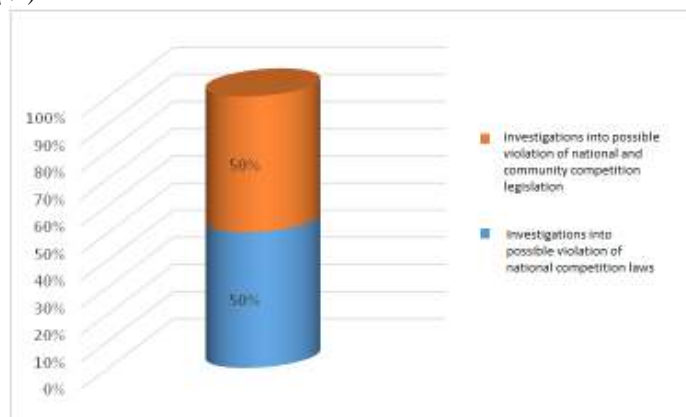
From figure 1 we can observe the following:

- The number of opened investigations increased in 2011 by 1.08 times vs 2010;
- The number of opened investigations decreased in 2012 by 0.78 times vs 2011 and by 0.85 vs 2010;
- The number of opened investigations decreased in 2013 by 0.86 times vs 2012, by 0.67 vs 2011 and by 0.73 vs 2010; The number of opened investigations decreased in 2014 by 0.63 times vs 2013, by 0.55 vs 2012, by 0.43 vs 2011 and by 0.46 vs 2010.

Regarding the 24 investigation of possible infringements of competition triggered in 2011, we note that approximately 60% were initiated by self-referral. The involved economic sectors are important both economically and in terms of the direct effects of possible anti-competitive practices at consumer level. The main sector concerned was that of energy/gas (30% of the total number of initiated investigations). (http://www.consiliulconcurentei.ro/uploads/docs/items/id10061/raport_anual_2014.pdf)

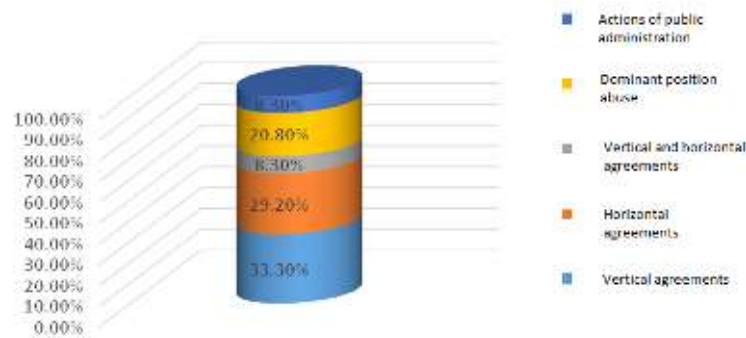
Next, we will present the structure of those investigations, by incident competition legislation and by investigated practice.

Figure 2. Investigation Structure regarding the possible infringement of competition legislation in 2011, by incident legislation (%)



Source: Competition Council- annual report 2011, page 13, available at: http://www.consiliulconcurentei.ro/uploads/docs/items/id7432/cc_raport_anual_2011_ro.pdf

Figure 3. Investigation Structure regarding the possible infringement of competition legislation in 2011, by investigated practice (%)



Source: Competition Council- annual report 2011, page 14, available at: http://www.consiliulconcurentei.ro/uploads/docs/items/id7432/cc_raport_anual_2011_ro.pdf

In the annual report of the Council for 2011 is noted that 71% of investigations relating to possible anti-competitive horizontal arrangements aimed at faking the public auction procedures. (http://www.consiliulconcurentei.ro/uploads/docs/items/id7432/URccraport_anual_2011_ro.pdf)

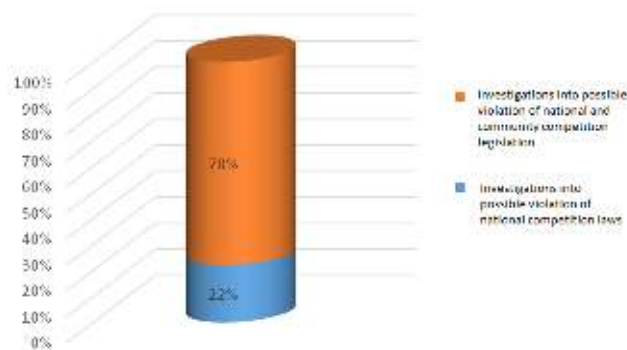
The three sectorial investigations triggered in 2011 are related to:

- banking payment services;
- a very used consuming product, i.e. beer;
- distribution through virtual stores for electrical appliances and clothing;

Of the 12 investigations on possible infringements of competition triggered in 2012, approximately 72% were triggered by self-referral as a result of tests carried out by the competition authority. Most of the investigations have targeted road construction sector (28%), followed by that of the transport of persons (11%). (http://www.consiliulconcurentei.ro/uploads/docs/items/id10061/raport_anual_2014.pdf)

In the figures 4 and 5 is represented the structure of those investigations, by incident competition legislation and by investigated practice (year 2012).

Figure 4. Investigation Structure regarding the possible infringement of competition legislation in 2012, by incident legislation (%)

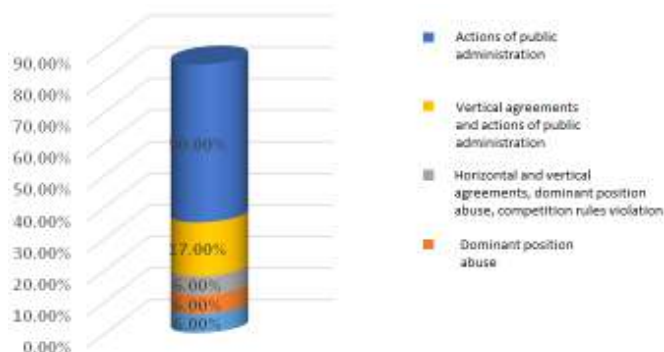


Source: Competition Council- annual report 2012, page 14, available at: http://www.consiliulconcurentei.ro/uploads/docs/items/id8323/raport_anual_2012.pdf

The three sectorial investigations triggered in 2012 are related to:

- the market of movie distribution to cinema's in Romania;
- the sector of natural gases in Romania;
- The national sanitation services market;

Figure 5. Investigation Structure regarding the possible infringement of competition legislation in 2012, by investigated practice (%)



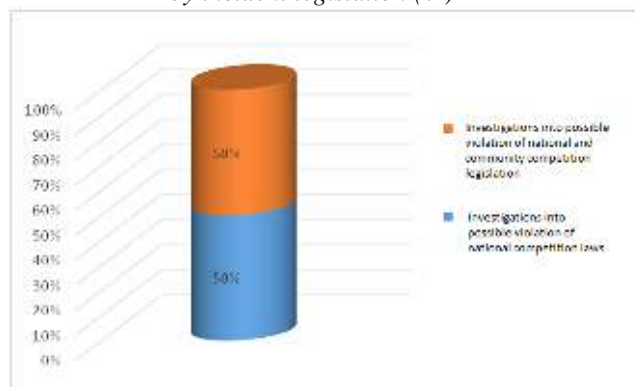
Source: Competition Council- annual report 2012, page 14, available at: http://www.consiliulconcurrentei.ro/uploads/docs/items/id8323/raport_anual_2012.pdf

In 2013, the Competition Council triggered 19 investigations, out of which 12 regarding possible competition legislation break and 7 regarding specific economic sectors. (sectorial investigation).

Of the 12 investigations on possible infringements of competition triggered in 2013, approximately 67% were triggered by self-referral as a result of tests carried out by the competition authority. Most of the investigations have targeted road construction sector, followed by that of milk production and cinematography (each 16%). (http://www.consiliulconcurrentei.ro/uploads/docs/items/id10061/raport_anual_2014.pdf)

In the figures 6 and 7 is represented the structure of those investigations, by incident competition legislation and by investigated practice (year 2013).

Figure 6. Investigation Structure regarding the possible infringement of competition legislation in 2013, by incident legislation (%)



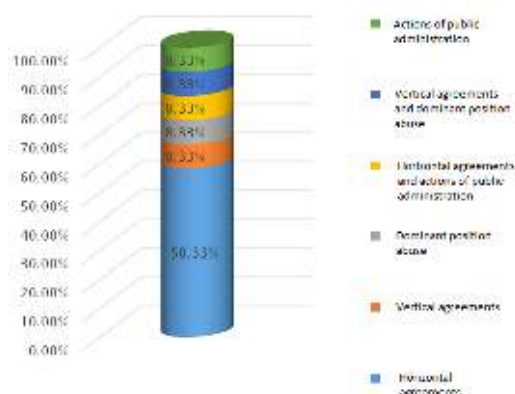
Source: Competition Council- annual report 2013, page 17, available at: http://www.consiliulconcurrentei.ro/uploads/docs/items/id9160/raport_anual_ro_2013.pdf

The 6 sectorial investigations triggered in 2013 are related to:

- Services provided by insolvent practitioners;
- Pharma products;
- Electronic communications and access to specific infrastructure;
- Wood market;
- Medical assistance;
- Auto insurance.

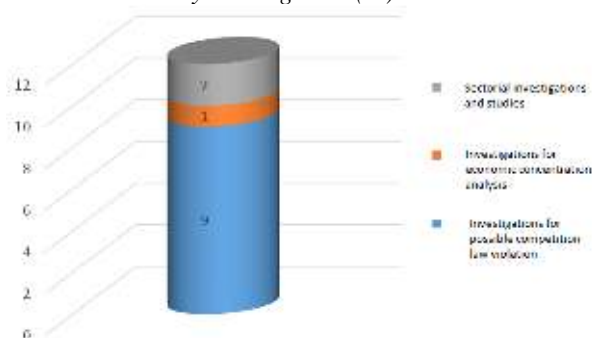
In 2013, the Competition Council triggered 12 investigations, out of which 9 regarding possible competition legislation break, 1 regarding engagement failures and 2 sectorial investigations.

Figure 7. Investigation Structure regarding the possible infringement of competition legislation in 2013, by investigated practice (%)



Source: Competition Council- annual report 2013, page 17, available at: http://www.consiliulconcurentei.ro/uploads/docs/items/id9160/raport_anual_ro_2013.pdf

Figure 8. Investigation Structure regarding the possible infringement of competition legislation in 2014, by investigation (%)



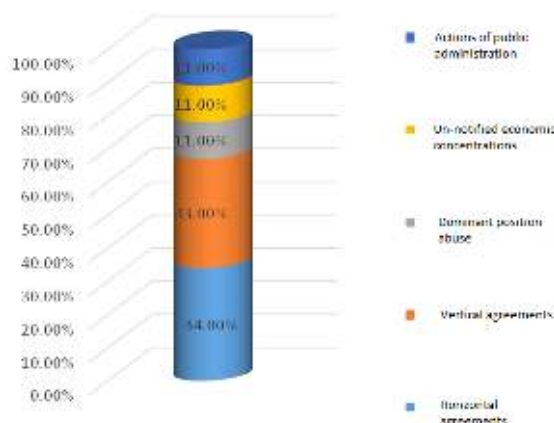
Source: Competition Council- annual report 2014, page 10, available at: http://www.consiliulconcurentei.ro/uploads/docs/items/id10061/raport_anual_2014.pdf

From the perspective of investigations related to possible infringements of competition legislation, the main sectors targeted by the initiated procedures in 2014 by the Competition Council have been the media sector, the sector of aliments and the one of electrical energy. The investigations are referring to:

- A possible cartel on the market for sale of the rights to broadcast football matches from the 1st Football League;
- a possible abuse of dominant position on the market for the transmission of audiovisual services, TV and radio;
- economic concentration implemented without a decision of the competition Council on the market of marketing communication services through the media;
- a possible anticompetitive vertical market arrangement on the communication services through the media;
- a possible anticompetitive vertical market arrangement on the food commercialization market; possible anti-competitive actions of the public administration on the production and sale of electricity market;
- a possible cartel on the market of infrastructure work for natural gas transportation and related activities, of their maintenance, assigned through public auctions;
- a possible cartel on the financial audit market;
- 2 cases of possible vertical anticompetitive arrangements on the batteries market (production, distribution and commerce).

The biggest part of investigations on the possible infringements of competition legislation triggered in 2014 are targeting horizontal and vertical anti-competition arrangements.

Figure 9. Investigation Structure regarding the possible infringement of competition legislation in 2014, by investigated practice (%)



Source: Competition Council- annual report 2014, page 11, available at: http://www.consiliulconcurentei.ro/uploads/docs/items/id10061/raport_anual_2014.pdf

3. Conclusions

According to the Competition Law no.21/1996, republished and modified through the Government Emergency Ordinance no. 75/2010, the Competition Council got new instruments through which it can solution competition cases. Therefore, the competition authority has the possibility to accept arrangements from companies or associations - both physical and juridical – Romanians or other nationality, involved in competition cases, having the possibility to eliminate the worries related to affecting competition on the market, in the case when the Competition Council don't apply financial fees/penalties (O.U.G. 75/2010 art.2 alin. (1)).

Also, it has been introduced e possibility to reduce the quantum of penalties with 10%-25%, when the companies expressly recognize their anti-competition infringements that are under investigation. They quit the advance certification of Competition Council non-intervention, as well to the individual's exception system from anti-competition arrangements provided by the Competition Law: in the absence of a decision from the competition authorities, the companies should auto-evaluate themselves the agreements compliance that are part of the applicable legal provisions.

The mission of competition authorities for the next years is to apply efficient measures for maintaining an adequate competition environment, taking into account an efficient and dynamic economy, grounded on recognizing and respecting the values and principles of competition, as a progress factor, durable development and well-being. Taking all these principles into account, the Competition Council base their actions on independence, responsibility professionalism, efficiency and integrity.

4. References

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3. *** - Competition Council – Annual Report 2013, available at http://www.consiliulconcurentei.ro/uploads/docs/items/id9160/raport_anual_ro_2013.pdf [accessed on 2nd November 2016].
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