

THE COMPETITION POLICY AND THE ECONOMIC COMPETITIVENESS OF THE SMEs

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Abstract: Because of the fact that competition appears as a determinant factor of competitiveness, this paper retains a series of concrete examples regarding the way in which the National Authority for Competition acts for maintaining and consolidating a concurential environment, meant to encourage performance of the SMEs and not only, and to sanction inefficiency and unfairness. In this paper are also to be found some useful information about the present developing indicators of the Romanian economy, which as reflected into the National Development Plan of Romania for 2007-2013, may consist in a good start point for the identification of the regions on which the public resources must be with priority oriented, so that the premises for a long-lasting and durable development of the economic competitiveness of the enterprises to be created. These developments generate the premises for consolidating the competitiveness of the national economy, making it ready to adequately respond to the challenges and opportunities created through our EU membership.

1. INTRODUCTORY REMARKS

Competition makes it possible to reward those businesses which innovate as well as delivering better products at lower prices, therefore stimulating productivity and innovation. To ensure open European markets, the European Commission keep on enforcing legislation in this area and fight against any behaviour that may prove anticompetitive.

Moreover, the EU is committed to removing obstacles to competition and this will be achieved through the permanently screening the markets and the legislation to identify restrictive measures and eliminate them. The opening up (deregulation) of network industries, such as electricity and gas, transport, telecommunications and postal services, should also have a positive impact on the overall economy and reduce prices for consumers.

Effective competition relies largely on Member States' efforts: State aids that distort competition need to be reduced. Remaining aid should be better targeted, that is to say redirected towards the Lisbon Strategy priorities, to boost innovation, research and development, and to stimulate entrepreneurship.

The renewal of the Lisbon Strategy in 2005 as the Partnership for Growth and Jobs focused the efforts of the European Union on effective responses to the challenges of demographic change and globalisation. The National Reform Programmes and the Community Lisbon Programme designed to carry this reform effort over the second three-year cycle aim at increasing employment rates and productivity growth at the same time. This combined effort to act on labour supply and productivity growth should help ensure that the European Union will continue to have the wherewithal to sustain its social model and to secure the prosperity to which Europeans have grown used over the decades, and which in good measure has been the fruit of European integration, in particular the single market.

Raising the long-term economic potential by increasing productivity growth is one of the fundamental objectives of the renewed Lisbon strategy. Reforms in pursuit of this objective are being undertaken mainly in the microeconomic policy pillar of the integrated strategy, although reforms in the macroeconomic and employment policy pillars of the strategy may also impact productivity growth. It is in the microeconomic

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policy area where Member States identified the largest number of key challenges in their 2005 National Reform Programmes.

If it was ever the case that the national governments faced a black and white choice between competition and protection – those days are over. That sort of binary choice overlooks reality, because the modern competition policy is not ideological – it is responsive to its environment and to market failures. It works best when it is pragmatic, such as with our cartel leniency programme.

Likewise, modern industrial policy should not be about politicians gambling with taxpayers' money on favourite companies and structurally uncompetitive industries. Modern industrial policy, as we know from the Lisbon Agenda for growth and jobs, is inter-twined with competition policy. It is about long-term investments like re-orienting an economy to benefit more from globalisation, improving R&D, or upgrading technological and other infrastructure. Blank cheques to friends and favourites are not part of the equation.

Instead of paying through taxes for an economy to improve in one sector, today our challenge is lift the speed limit for growth across the entire economy, and then find efficient ways to put the foot on the accelerator.

We have to meet that challenge because the global economy is a race. And can either train for that race, so as to be ready to compete, or we can fool ourselves by bribing the referees and fiddling with the rules.

Generally speaking, the competition is viewed as a fight behind which the best prepared survives. Being confronted with a wild competition and trying to achieve a bigger profit, the actors existing on the market are often tempted to disturb the competition in order to consolidate, and then, to abuse of their market power. In these conditions, the intervention of the authorities is necessary for assuring the development of a healthy competitive business environment.

Although a bigger market concentration does not necessarily means a lack of competition, and does not always have a negative impact on the economic performances, this development could encourage the anti-competition behaviours.

2. EQUAL OPPORTUNITIES FOR ALL ACTORS ON THE MARKET - ESSENTIAL PREMISE OF THE COMPETITIVENESS

Europe's small and medium-sized enterprises are the motor of the European economy and the main drivers for achieving sustainable growth and more and better jobs. At EU level, the European Commission has developed a comprehensive SME policy, which aims to ensure that Community policies and actions are small-business friendly and contribute to making Europe a more attractive place for setting up a company and doing business.

Small and medium-sized enterprises – firms with fewer than 250 employees, with annual turnover of less than €50 million, and independent of larger enterprises – make up the backbone of the European economy. Across the EU, there are around 23 million SMEs; that is 99% of all enterprises. And SMEs account for about 75 million jobs. In some key industries, such as textiles, construction and furniture-making, they account for as much as 80% of all jobs.

But whilst the importance of Europe's SMEs, in economic terms, is widely recognised, there are simply not enough entrepreneurs and SMEs growing and creating new jobs. There are two major reasons for this: first, not enough European citizens are attracted to the professional challenges and risks of starting or running an SME; and second, legislation and regulation complicates the work of SMEs and/or adds to their costs, not least in respect of taking on additional employees.

The over-riding challenge for the European Union and its Member States is to create conditions in which entrepreneurs are encouraged to follow their ideas through, where the attractions and potential gains outweigh more clearly the costs and inevitable risks of starting an enterprise. Moreover, the conditions in which businesses operate need to be reviewed, to remove those unnecessary and disproportionate costs and procedures which stifle the creativity and growth of smaller enterprises.

In present, the business Romanian environment is the main beneficiary of a normal concurential climate. The national legislation in the field of competition and of state aid is integral harmonized with the EU acquis, and the Competition Council, a solid and independently institution, is an equidistant arbiter applying in a unitary way the relevant rules.

The Competition Law has as main goals to protect, maintain and stimulate the competition and the normal concurential environment in order to protect the consumers. In this scope, it interdicts the anti-concurential pacts, which could conduct to a significant denaturation of the competition.

Blocking the anti-concurential pacts - Through the competition legislation, the pacts between companies with at least one of the following reasons are forbidden: fixing the prices, limitation or controlling the production and / or distribution process, dividing the sales markets, participation with prepared offers to auctions.

Forbidding the abuse of dominant position - The Competition Law forbids the abusive use of a dominant position. The dominant position means that situation in which an economic agent is capable to behave independently against suppliers, customers and competitors because of its possessed market power. We have to underline here that having a dominant power is not forbidden, but only the abuse. Such of an abuse can manifest through: imposing the prices, limitation of the production and / or distribution, importing without offers' competition, practicing of excessive prices or of some ruins prices, exploiting the dependency situation of an economic agent etc.

The control of the economic concentrations - In order to avoid the creation and consolidation of some dominant positions of nature to produce the withdrawal, restrain or significant denaturation of the competition, the national authority evaluates the economic concentration which exceed the notification sills stipulated by the law, the two conditions being: the cumulated sales level of the implied economic agents, globally speaking, exceeds the ceiling of 10 millions Euro; the sales level realised in Romania by each of at least two of the implied economic agents, is over the limit of 4 millions Euro.

The economic concentration represents that situation when a reduce number of economic agents own a high share of the economic activity on a certain market. A concentration can be realised through fusion, through holding the control or through association. An economic agent can also hold the control onto another economic agent through participations to the social capital, through buying actions, actives or through instituting of relationships of economic dependency.

The Competition Law reveals a series of sanctions, trying to discourage the anti-concurential practices. For this goal, it stipulates that the followings constitute contraventions and are sanctioned with fine up to 1% of the total sales income of the last financial year: the omission to notify a operation of economic concentration; the refuse to be controlled; the supply of inexact or incomplete information; the not offering the requested information to the Competition Council etc. A fine up to 10% of the total sales income of the previous financial year can be applied for: putting into practice of an anti-concurential understanding; concentrated practices with anti-concurential effects; the abuse of dominant position; the putting in practice of an

operation of economic concentration for which the Competition Council haven't had imposed a decision yet; the unfulfilling of an obligation or condition imposed through a decision of the Competition Council; the initiation of an action of economic concentration declared incompatible with the regulations of the Competition Law by a decision of the Competition Council.

The consequent application of the competition rules produces disadvantages only for the inefficient companies, but for the economy and for the consumers, the effects demonstrated in tens of countries are those of promoting the technical progress, of efficient allocation of the resources, of developing the private sector and of social welfare, in other words, of growing the competitiveness as a whole.

An intensive dissemination at public level of the competition rules must be considered as a priority because:

- By comparison with other countries with a bigger experience in implementing the competition and state aid rules, the Competition Law has only 12 years since it is applied in Romania, while the state aid rules entered into force only 9 years ago. Besides, our country obtained only a short time (late 2004) ago the status of functional market economy.
- The promotion of a concurential culture sustains the prevalence of the competition and state aid legislation, contributing in the same time to the raising of the awareness degree about the beneficial role of the competition in developing of some normal market mechanism.
- The competition culture endorses the maintaining of a transparent and foreseeable business environment, a key factor of a functional market economy.

Thus, the business environment our country enjoyed last years adequate instruments of promoting the competition culture, such as:

- Mediating the actions and decisions of the Competition Council;
- The organization, at central and regional level, of specialized seminars, conferences, round-tables, with national and international participation;
- The dissemination of numerous speciality documents of the national authority in the field of competition.

In conclusion, the economic agents are permanently informed about the rules of the game which are contributing to the normal function of the market economy mechanisms. On the other hand, the companies not respecting these rules are very sever sanctioned, being this way encouraged all the market actors operating efficiently and who are contributing to the durable raise of the competitiveness of the national economy.

3. THE PRESENT COORDINATES OF THE COMPETITIVENESS OF THE ROMANIAN ECONOMY

The durable and sustainable economic growth is determined by the development of the competitiveness of the economy in the context of the global challenges (globalization, the openness of the markets, the technological progresses) which should be transformed into new opportunities for the Romanian economy.

The competitiveness of an economy is based on three main elements, lie technology, solid institutions, and macroeconomic stabilization. The technology is a premise of the long term development; the institutions must assure the propriety rights, the respect for the agreements, the efficiency and transparency of the governmental expenses, while the monetary and fiscal policies, aside with the stability of the financial institutions have an important role in assuring a durable progress.

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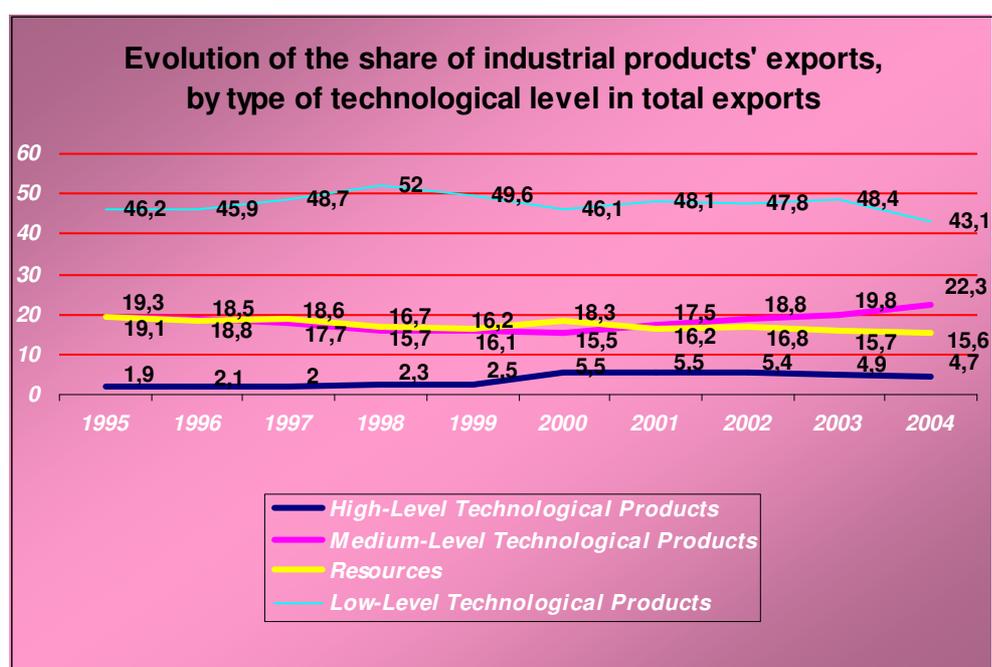
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Although all the last years progresses, Romania still is situated behind the European competitors from the economic development point of view; this situation is very well illustrated by the level of the GDP, which was only 1/3 from the EU 25 average in 2006, and this aspect reflects the substantial difference compared with EU.

Period	Gross domestic product			Industrial output 2)	Industrial turnover volume 3)	Labour productivity in industry 2)	Industrial producer prices 3)	Investments	Domestic trade 2) 4) 5)		Services to population 2) 4) 5)
	nominal (RON mill.; current prices)	real	deflator						retail sales 6)	motorcars and motorcar fuels 7)	
2005	288,176.1	4.2	12.2	2.0	3.5	6.2	10.49	10.8	17.5	25.7	9.5
2006	344,535.5	7.9	10.8	7.2	6.1	9.9	11.56	19.7	13.5	33.6	31.4
2007	404,708.8	6.0	10.8	5.4	11.2	9.9	8.07	28.1	17.8	24.3	3.7
2007 Q1	68,841.5	6.1	6.2	7.6	21.5	12.8	9.41	22.8	4.3	58.8	3.0
Q2	87,063.7	5.7	8.1	4.7	8.4	8.9	7.53	28.3	13.7	33.8	-2.0
Q3	111,035.1	5.7	11.5	5.1	7.3	9.4	6.08	31.9	30.0	10.1	5.5
Q4	137,768.5	6.6	14.3	4.4	8.4	8.6	9.32	29.5	19.2	14.5	8.1
2007 Sep.	x	x	x	3.2	7.2	7.3	7.00	x	31.9	7.6	4.8
Oct.	x	x	x	5.8	12.6	10.4	8.20	x	17.1	5.9	-0.6
Nov.	x	x	x	4.5	7.2	8.7	9.22	x	19.2	28.8	1.2
Dec.	x	x	x	2.6	5.5	6.8	10.51	x	20.1	10.1	24.2
2008 Jan.	x	x	x	6.0	0.9	8.8	13.03	x	13.2	39.0	20.0
Feb.	x	x	x	7.7	5.1	11.1	14.52	x	23.5	37.0	8.5

Table 1: Romania's Main Macroeconomic Indicators (source: BNR, 2008)

The Romanian export has had also a positive evolution during 2000-2006, but was mostly based on products low-manufactured. The most exported products remained the textiles ones, because of lohn, followed by metallurgical products – steel products. But there were also some electrics and electronics products exported, and autos, as well. The trend is to decrease the low manufactured products exported, and to increase those high manufactured once, which is a, encouraging tendency for our exports.



Graph 1 (Source: Ministerul Economiei și Comerțului)