

THE IMPACT OF EU INTEGRATION ON ROMANIAN COMPETITION ENVIRONMENT

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The paper is based on a qualitative research on Romanian business environment reflecting the necessity of an efficient promotion of the value of competition policy by the responsible authority as well as the awareness of business environment of the importance of the issue on the enlarged market in the new context of EU accession.

Keywords: *competition, integration, business environment, research, market economy*

Introduction

Competition policy determines the rules of the game by which competition takes place in the economy. Its economic goal is to improve efficiency by creating an economic environment in which firms can improve their economic performance, and consumers can derive the benefits that the market can deliver (Gal, 2004). Promoting an authentic culture in the field of competition is considered to be a very important issue in the process of applying the rules existing on the market economy, together with using specific instruments for fighting anti-competitive practices and for controlling economic concentration and state grants. Because competition policy must be known and understood by everyone involved in the economic life, and this cannot be achieved without consciously applying transparency and non-discrimination principles.

Furthermore, economic agents must be informed and know both the methods by which they can be protected by legislation in case they fall victims to some sort of anti-competitive practices, and the risks they expose themselves to in case they break the rules. They must be conscious of the fact that only by knowing the legislation very well they can be protected before the law: first of all in order to know which are those forbidden practices as not to infringe upon them, thus avoiding fines and sanctions; then, every time they feel threatened on the market by the shares of companies infringing the law, they can file a complaint with a view to putting an end to these practices that are detrimental to their activity. Promoting competition culture values and consciously applying its principles produces disadvantages only for the inefficient companies, while for the entire economy and consumers, the results, as demonstrated in tens of countries, are those of promoting technical progress, of efficiently allocating resources, of developing the private sector and of social well-being. (Bannerman, 2002) It must be underlined that the role of the competition authority is that of preserving a climate based on competition, as entering the market is free, as it is not restricted by any artificial barriers and as inefficient operators leave the market on their own free will, by bankruptcy. Accordingly, it is vital for policy makers not to exaggerate the hazards of setting conflicting policy goals. It should be noted that, even if economic efficiency and progressiveness are the ultimate goals, they cannot be easily implemented. Due to the complexity of setting priorities correctly in economic settings, it is difficult, if not impossible, to create a purpose clause which will direct enforcers and market participants to a conclusive interpretation in all cases (Gal, 2004). Economic operators must defend themselves by increasing efficiency and abiding by the rules of the game. They have at their disposal a number of instruments and methods by which they can take actions without being sanctioned, but only a thorough, coherent and complete research can offer them the security of acting and operating on the market.

The thought of knowing and applying the legislation in the field of competition is more important, as in some ways, companies are those that take care not to infringe the norms; in other words, legal security is given not by the chosen procedure, but by the degree of knowledge of the law, by its clarity and by the clarity of the evaluation carried out by the companies.

For that, we have considered it necessary to make a survey amongst the Romanian companies in a survey (few months before EU accession) that may allow to obtain comprehensive valid and valuable information, so as to reach relevant conclusions regarding the role of the institution having the task of informing, preventing and sanctioning anti-competitive behavior and the degree of perception of companies at the moment of finalizing the preparation to the EU accession. The provisions of EC Treaty directly implicate competition policy: to provide an „internal market characterised by the abolition, as between member states, of obstacles to the free movement of goods, services, persons and capital”, and a „system ensuring that the internal market is not distorted” (Lorentzen, 2002) An insufficient degree of preparing and informing of the economic agents on the large market, as that of the European Union market, might create confusion, disorientation and loss of important benefits coming from multiple opportunities of development and expansion.

Research methodology

The goal of the research is to analyse the degree of preparation and information of Romanian business environment regarding the anti-competitive practices sanctioned by the competition law and the role played by the Competition Council, an independent institution, autonomous in regulating the mechanisms on the free market by protecting honest competition. Therefore, the objectives of this research can be synthesized as follows:

Identifying the degree of information of the business environment regarding the actions of the Competition Council

Determining the business environment degree of knowledge of the practices sanctioned or forbidden in some cases by the Competition Council Determining the companies' advantages and disadvantages triggered by the process of EU accession;

Identifying the characteristics of the normal competitive environment by companies in Romania and of the proportions to which these elements are found among the characteristics of the Romanian competition environment.

According to the type of information resulting from the research, this is a qualitative research, and according to the place of carrying out the research it is an on sight investigation. According to the functional goal of this research, it is an exploratory investigation, predominantly descriptive, which is aimed at describing and evaluating some coordinates, but also an explanatory investigation, because it tries to analyze the causal relationships existing between certain existent variables.

The degree of knowledge and information regarding the existence and activity of the Competition Council

As a result of the research, 3% of the interviewed economic agents hadn't heard of the existence of the Competition Council before the moment they received the questionnaire. 14% of the respondents heard about the Competition Council at the moment it was set up or when the Competition Law entered into force (1996-1997). The great number of no-answers to this questions (54%) and the fact that most of those who answered couldn't identify exactly the moment when they heard of the existence of the Council for the first time, proves two important aspects: the importance given to this issue (the Competition Law and the Competition Council are two issues that can easily be ignored by the business environment), and the companies' interaction with the Council's members. Moreover, the business environment in Romania is not educated enough to give the competition issue the gravity it gives the marketing policy for example, although the two are interdependent and shouldn't exist one without the other. But, for sure the moment 2007 will mean more to the companies than a larger commodity market and the threat of competition from the European companies. This will be the signal that without a clear authentic competition strategy, without knowing the norms in the competition field, without admitting the role played by the competition authority, the resulting benefits on a certain market may be smaller than expected and for a shorter period of time.

The level of knowledge of the agreements and methods of unfair competition

In short, in order to avoid being suspected or sanctioned for breaking art.5 in the competition law regarding anti-competitive practices, economic agents should take into consideration the following issues:

- not to agree or accord with competitors on the price or on the allocation of the geographic market, customers or to any other types of disloyal agreements;
- the accomplished acquisitions must be based only on quality, price and the range of offered services;
- not to impose selling a product or service by selling other product or service where the company has a competitive advantage;
- not to communicate with their competitors about selling, current or potential customers, auctions, products or services offered to customers, abilities, plans;
- not to impose to the buyer the restrictions of not re-selling the product or the service in a certain area or to a certain group of customers.

However, in order to avoid such cases, companies must know these practices forbidden by law and the fact that their premeditated/unpremeditated use may lead to sanctions and penalties which may amount to 10% of their turnover.

Nevertheless, the research performed shows that most of the companies included in the sample are not aware of the anti competitive practices which have to be avoided, and only 6% have ticked all the answers. Thus, 60% of the respondents indicated as anticompetitive settlements the *establishing of prices on a product*, 54% *the division of the market or of the customers*, 28% *the division of the production-selling rates*, 66% *eliminating competitors in public auctions*, 54% *eliminating a competitor, a supplier or a buyer* and 29% *exchanging information between competitors*. The fact that a large number of the companies included in the research gave a negative answer is fully justified. On one hand, if they had been aware of the entire list of unfair agreements, they could have indicated more accurately the practice of some of them; on the other hand, we cannot ignore the fact that it is rather difficult to obtain recognition for practicing a forbidden method, even if this is necessary for statistics and the answer would be confidential.

Ways business environment can get informed on the Competition Council's activity

The main source to get informed about the activity of the Competition Council in Romania is the press (60%), followed by television (47%), internet (34%), the institution's site (23%) and radio (11%). Also mentioned in low percentages among other sources of information is: the Official Gazette, the legislation, having direct contact with the Council's members, official statements received by fax. The fact that the media is the main method to get informed about the business environment is not the least bit surprising. But in an area as complex and exact as competition, these sources are necessary but insufficient in order to offer analyses and solutions. It is not surprising that among the sources of information neither the magazine „Profilul Concurența” nor the annual report of the Council were mentioned, which should be the main source for the business community in the field to get informed. This can be explained by the lack of advertising these two methods, be that because they turned out not to be real sources, efficient enough to offer solid solutions to the real market scenarios, and in the end to capture the interest and attention of the business environment. It can be said that for now in Romania, a competition between expert magazines in the field of competition and reliable advertising techniques on the market is essential.

Conclusions

The research concerning the Romanian competitive environment is conclusive enough to be able to enlist some relevant conclusions referring to the perception and degree of knowledge of some elementary aspects concerning the competition, just a few months before EU accession- a very important moment. We must not lose sight of the fact that the main challenge following 2007 will be the ability to face competition pressure on the EU market. Under the obligation of fulfilling some requirements, Romania has received the status of functional market economy. A possible fiasco in fulfilling this objective could transform the advantages of accession into the illusion of a shattered dream. But the main aspect is acknowledging the fact that without a fair competition, and without a continuous way of getting informed, there is no functional market. Observing the rules of a free open and loyal competition in the European environment involves knowing the regulation in the field, the existence of a civic conscience, and even more so, the existence of a democratic spirit and of economic freedom.

Lately there has been mentioning in the expert literature of the existence of a “*competition discipline and of a culture in the competition field*” as an obligatory and necessary requirement which might allow a deeper accession to the EU. If the competition discipline is learned faster by the authorities, and by the economic agents, it has to be the same as the one in the UE. Competition culture is obtained in time through a series of actions and measures intended to lead to the fulfilling of those requirements. Here, the Competition Council must intervene in each country, in order to develop a significant activity for this.

An interference between the culture of the competition field and the organizational culture or the culture in the marketing field is not at all exaggerated, because all of them belong to the same actual trend and have as objective the obtaining of some competitive advantages on the European market, advantages that will allow a better positioning within the market frame and will be a guarantee for accessing properly the European economic field. The competition policy must be a constant component for the political mix practiced by a country being in transition, not just one being in conjuncture.

The existence of a consistent and coherent policy for protecting competition is useful for controlling the privatization process and for offering credibility for the interventions of the competition authorities. It should be noted the importance of the consulting companies in this field. First of all, because the authority in the competitive domain has limits and restraint of its own, which are determined by the absence of the material and human resources, and on the other hand because its role is to sanction, more than to prevent. Secondly, its constraining force can be diminished if there is any risk of transforming itself from a control factor to that of an adviser. Its role has to remain that of tracking down and sanctioning anticompetitive practices on the market.

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