

## ANALYSIS OF COMPETITIVE ECONOMIC ENVIRONMENT IN EUROPEAN UNION, PERIOD 2010-2015

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**Abstract:** *The paper aims to analyze the competitive economic environment in the European Union in the period 2010-2015. In the first part of the research we have presented a few theoretical aspects relating to competition and then we analyzed the main investigations triggered by the European Commission in the field of competition for the period under review. Commission policies in matters of antitrust and mergers and application with their bigger efficacy had brought into the spotlight the welfare of consumers, in particular through a thorough economic analysis.*

**Keywords:** Competitive environment, Antitrust norm, Cartel, Economic concentration, Anticompetitive practice.

**JEL Classification Codes:** D41, D42, D43.

### 1. INTRODUCTION

Competition policy cannot shape a fairer economy on its own, but it can make an important difference: enforcing competition law ensures that there is a voice for the consumers. Competition policy contributes towards a society that gives people choice, stimulates innovation, prevents abuses by dominant players, and drives companies to make the most of scarce resources thus contributing to addressing global challenges like climate change ([http://ec.europa.eu/competition/publications/annual\\_report/2016/part1\\_en.pdf](http://ec.europa.eu/competition/publications/annual_report/2016/part1_en.pdf)).

The competition represents a mobilizing market factor together with demand, supply and price. In a free market economy, this notion is viewed as a global concept which determines the alignment of all competition laws by a common goal, which is to ensure a high level of production quality and market products intended for final consumers.

In the contemporary market economy, competition issues and their protection is rather a complex topic and highly topical. Being a progress factor, competition must be known, understood and, most important, maintained in the legal limits by the economic agents in a competitive economic environment where they operate.

For these reasons, it is necessary to be promoted a policy of competition adapted to market rules, along with an effective use of specific instruments to combat anti-competitive practices in particular, the protection of participants in economic life as well as bringing to attention the dangers to which they expose themselves to not fall victim to a breach of competition laws.

Today, protection of competition through knowledge and promoting culture in the area is of particular interest to national economic level but also European who has faced and will face further abuse of dominant position, anti-competitive agreements, economic concentration, unfair practices, that are just altering the normal competitive environment.



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The European Commission, together with the national competition authorities, directly enforces EU competition rules, articles 101-109 of the Treaty on the Functioning of the EU (TFEU), to make EU markets work better, by ensuring that all companies compete equally and fairly on their merits. This benefits consumers, businesses and the European economy as a whole ([http://ec.europa.eu/dgs/competition/index\\_en.htm](http://ec.europa.eu/dgs/competition/index_en.htm)).

EU competition policy aims to protect the efficient functioning of markets from competition distortions whether originating from Member States (distortive State aid), market players (distortive unilateral or coordinated behaviour), or mergers that would significantly impede effective competition. This is done by enforcing competition rules, namely antitrust/cartels, merger control and State aid control when the Commission finds evidence of unlawful behaviour, and through actions aimed at ensuring that regulation takes competition duly into account among other public policy interests ([http://ec.europa.eu/competition/publications/annual\\_report/comp\\_aar\\_2015\\_final\\_en.pdf](http://ec.europa.eu/competition/publications/annual_report/comp_aar_2015_final_en.pdf)).

By applying state aid rules, the European Commission provided the limitation to minimize distortion of competition within the internal market, despite significant amounts of State aid, and restructuring beneficiary banks, as appropriate.

In antitrust policy, citizens are encouraged to give some information on possible infringements of the competition rules by filing a complaint in accordance with article 7 paragraph (2) of regulation 1/2003 or through the provision of information in the context of the market investigation. Consumers are even invited by the Hearing Officer to attend the hearings, if their interests are affected (Musil & Birch, 2011).

## **2. MAIN INVESTIGATIONS TRIGGERED BY EUROPEAN COMMISSION IS THE COMPETITIVENESS DOMAIN**

In 2014, the European Commission fined the pharmaceutical company Servier and other 5 generic drug manufacturers with the amount of about 430 million euros. The reason was the conclusion of agreements aimed at protecting the best-selling drug company Servier, Perindopril, used in treating high blood pressure, against competition producing other cheaper generic drugs.

The Commission has also investigated the cartels from derivative financial market, whose prices were set by reference to certain reference indices (EURIBOR (EIRD) JPY Libor, Euroyen TIBOR (YIRD) and Libor for Swiss francs (CHIRD)).

In the recent years, the Commission took several decisions in this regard against some banks such as Barclays, Deutsche Bank, RBS, Société Générale, UBS, Citigroup and JPMorgan. The fines totaled 1.8 billion euros (some banks also benefited from discounts because they had cooperated with the investigation and agreed to an amicable solution).

Globally, the economic situation improves gradually, as the effects of the economic and financial crisis will be reduced. For the next few years, the international financial institutions will be advocating the strengthening of economic growth and trade in a moderate but steady pace. In this context, measures aiming at developing growth potential of economies around the world are fundamental. The effectiveness of competition policy is positively associated with sustainable economic growth, taking into account the impact that, through specific mechanisms, the activity of the competition authority it has on productivity growth.

In order to prevent distortion of competition in the single digital market efforts must be made not only in the area of electronic commerce. Competitive sector of the mobile Internet is becoming more and more important to consumers and businesses in Europe: smart phones and tablets accounting for more than half of all internet traffic worldwide and it is expected that they will have a greater weight in the future. In this sector, the Commission issued in April 2016, a communication concerning the objections to Google and its parent company, Alphabet, in

conjunction with the operating system and applications. According to the Commission's preliminary opinion, Google has implemented a strategy consisting in the use of mobile devices to maintain and strengthen its dominance in the field of General internet search.

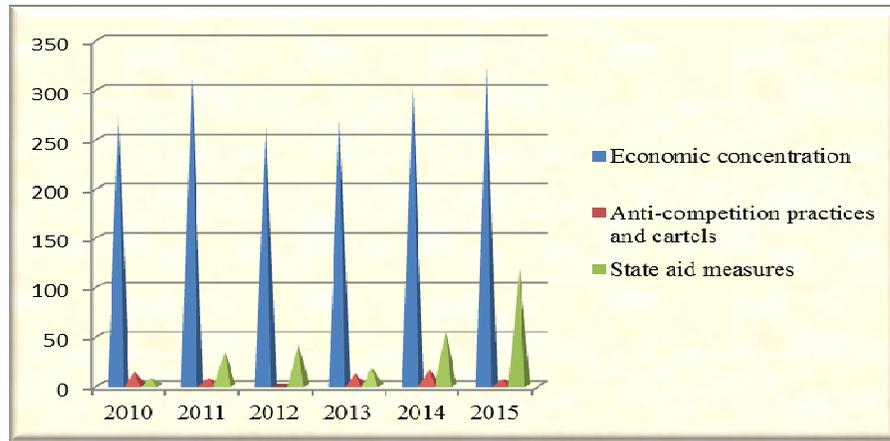
First, the practices in question have led to pre-installing Google Search and setting it as the default search service or exclusively on most Android devices sold in Europe. Secondly, the concerned practices appear to eliminate the possibility of rivals to penetrate the market of search engines market via mobile browsers and operating systems. These norms apply to all companies that are operating in Europe. As a result of Google's behavior, it's a big chance that the search engines, mobile operating systems or web browsers belonging to rivals have been artificially excluded from specific business opportunities, instead of being able to compete based on their own merits. This would deprive consumers to access a wider range of mobile services and applications, and would create barriers to innovation within the larger mobile space. Google now has the opportunity to respond to the concerns expressed by the Commission.

A precondition for a dynamic digital single market lies in the existence of a competitive sector of mobile telecommunications, which would ensure fair prices, innovative mobile services and high quality network. In may 2016, the Commission adopted a decision in this respect with regard to block, following the EU regulation regarding economic concentration, the acquisition proposal from Hutchison for O2, which would have created a new leader on the market of mobile telephony in the United Kingdom. There were serious grounds for concern regarding the fact that, as a result of the takeover, mobile customers in the UK would have had fewer options for packages of mobile services that respond to their needs and would have had to bear higher costs. Also, this takeover would have limited innovation and development of the network infrastructure in the United Kingdom, a really worrying aspect, particularly for markets in a rapid evolution. Proposed remedies for Hutchison were not sufficient to prevent this development. ([https://europa.eu/european-union/topics/competition\\_ro](https://europa.eu/european-union/topics/competition_ro))

**Table 1. Activity analysis of European Commission regarding competition, 2010-2015**

<b>Year</b>	<b>Economic concentration</b>	<b>Anti-competition practices and cartels</b>	<b>State aid measures</b>
2010	270	14	8
2011	311	8	34
2012	272	1	44
2013	269	12	18
2014	300	16	54
2015	320	7	119

Source: Report on competition domain policy for 2015, page 4-5, available at [http://ec.europa.eu/competition/publications/annual\\_report/2015/fw\\_ro.pdf](http://ec.europa.eu/competition/publications/annual_report/2015/fw_ro.pdf)



**Figure 1. Activity analysis of European Commission regarding competition, 2010-2015**

*Source: figure based on table 1 data*

2015 was a remarkable year, from several points of view. The Commission authorised the mergers 320, adopted seven decisions concerning anti-competitive practices and cartels and has approved about 200 of the State aid measure (Figure No.1)

In 2014 were authorized 300 economic concentrations and have been adopted most of the decisions concerning anti-competitive practices during the analyzed period-16 respectively. There have been approved only 54 state aid measures, 3.7 times less than in 2015. (Table no.1)

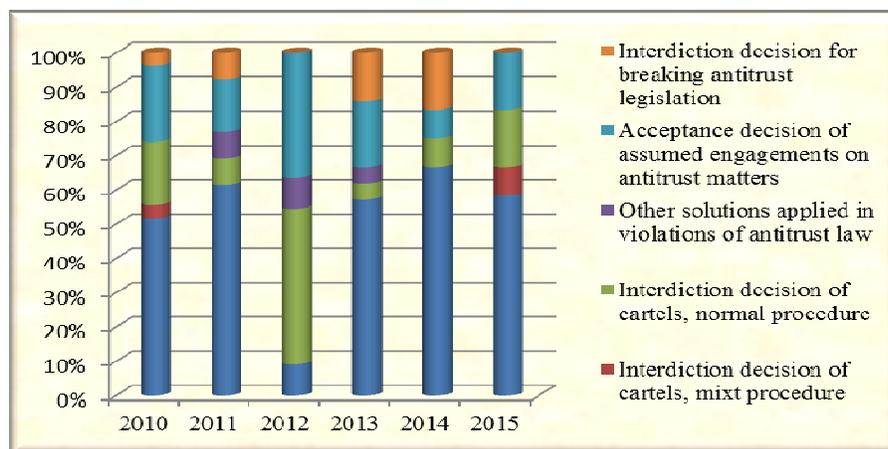
The smallest number of state aid have been given in 2010 (8 aids) and regarding the anticompetitional practices and cartels, the smallest number of decisions have been adopted in 2012 (1 decision). The least economic concentrations authorized by the European Commission has been in 2013 (269 cases) and the most in 2015 (320 cases).

Competition rules are designed to ensure that the economy and markets are operating in the interest of the citizens. The rules shall ensure that undertakings which hold a dominant position on the market comply with the rules and not abuse their power. These rules maintain fair competition so that all companies have a chance of success, no matter how big or small they are.

**Table 2. Activity report regarding antitrust and cartels, period 2010-2015**

	Interdiction decision of cartels, transaction procedure	Interdiction decision of cartels, mixt procedure	Interdiction decision of cartels, normal procedure	Other solutions applied in violations of antitrust law	Acceptance decision of assumed engagements on antitrust matters	Interdiction decision for breaking antitrust legislation
2010	14	1	5	0	6	1
2011	8	0	1	1	2	1
2012	1	0	5	1	4	0
2013	12	0	1	1	4	3
2014	16	0	2	0	2	4
2015	7	1	2	0	2	0

*Source: Report on competition domain policy, years 2010,2011,2012,2013,2014,2015, available at [http://ec.europa.eu/competition/publications/annual\\_report/index.html](http://ec.europa.eu/competition/publications/annual_report/index.html)*



**Figure 2. Activity report regarding antitrust and cartels, period 2010-2015**

*Source: figure based on table 2 data*

In the first decades of existence of the European Economic Community, the main priority was the gradual elimination of barriers imposed on Member States by national regulations. The rules on competition laid down in the EEC Treaty, in particular antitrust rules, have accompanied and supported this progressive removal of trade barriers. Indeed, in terms of the first report on competition policy, "Community policies must, firstly, to prevent the replacement of government restrictions and barriers, which were abolished, with similar individual measures".

Therefore, antitrust rules have been applied strictly to prevent the artificial division of the internal market by enterprises, through practices such as dividing and sharing market, discriminatory pricing or obstacles to parallel trade. The first antitrust cases, outlining the obstacles in the way of parallel imports as agreed between private firms, dating back to the 1960s, notably the judgment handed down in 1964 against representative agreement-*Consten Grundig*, which had led to a breakdown of the market and the significant price differences between France and Germany for the same products. The intense activities of law enforcement in this area continued during the 1970s and later, aiming at anti-competitive practices such as cartels having as main aim to divide the market ([http://ec.europa.eu/competition/publications/annual\\_report/2010/part1\\_ro.pdf](http://ec.europa.eu/competition/publications/annual_report/2010/part1_ro.pdf), 2010)

Analyzing table 2 we can notice that in 2014 the Commission authorized the most decisions on banning cartels- transaction procedure, i.e. 16, and in the same year was also authorized the most numerous decisions of interdiction regarding antitrust law breaking, i.e. 4.

In 2015 the Commission activity was low because they were only 7 decisions to ban cartels- transaction procedure, and only one decision prohibiting cartel –mixed procedure. two decisions for prohibiting cartels- normal procedure and two decisions for accepting commitments in matters of antitrust. (Figure no. 2)

The least decisions of cartel interdiction- transaction procedure- have been authorized in 2012, i.e. 1, and the normal procedure one's in 2011 and 2013, i.e. 1 decision. The most numerous decisions of cartel interdiction – normal procedure- authorized by the European Commission have been in 2012, i.e. 5.

### 3. COMPETITIVENESS PROMOTION THROUGH CARTEL FIGHTING

European companies success depends to a large extent on the practice of competitive prices. Production costs that are artificially increased by behaviours and anti-competitive market structures have negative effects on European competitiveness on world markets, but also on the

prospects of its general growth. It's self explanatory that the existence of high production costs lead to higher prices for final consumers. The adoption of firm measures to ensure compliance with rules on cartels is essential in this context. Cartels are often targeting production factors and intermediate goods, and the Commission has concentrated its efforts on ensuring compliance with the rules in this area. In recent years, several successfully completed investigations have unraveled cartels which were practicing high prices for production factors, affecting seriously the competitiveness of the European Union. The Commission has pronounced in such a case also in 2013. In July, the Commission penalized five auto parts suppliers, Sumitomo, Yazaki, Furukawa, S-Y Systems Technologies (SYS) and Leoni, applying them with fines totaling 141.791.000 EUR for their participation in one or more of the five cartels that were supplying Toyota, Honda, Nissan, and Renault with beams of electrical wiring. Cartels acted throughout the European Economic area (EEA). "central nervous system". Beams of electrical wirings are representing a group of cables that are sending signals or electricity that are connecting computers to different components integrated in the car construction and that are often described as the car „central nervous system” ([http://ec.europa.eu/competition/publications/annual\\_report/2013/part1\\_ro.pdf](http://ec.europa.eu/competition/publications/annual_report/2013/part1_ro.pdf), 2013)

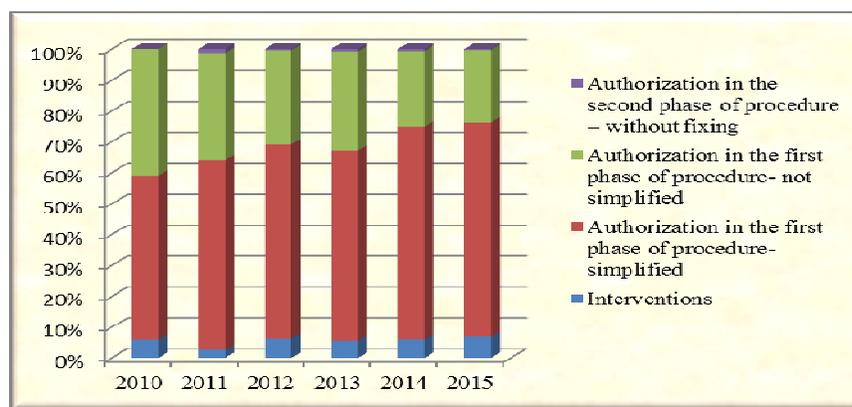
Ensuring compliance with antitrust rules on a fast evolving digital market: case Google-the Commission has expressed concern regarding the possibility that Google will abuse its dominant position on the markets of internet search, advertising through search engines and intermediation of advertising through search engines within the EEA. The Commission has expressed the opinion that such practices could harm consumers by reducing supply and stifling potential innovation in the field of specialized search tools and services of advertising through search engines. To address the concerns of the Commission with regard to competition, Google presented a first set of commitments in April and a revised set in October. The Commission has asked for reactions on the part of the parties concerned with regard to the commitments assumed by Google, reviewed through formal requests for information. In the light of the comments received, the Commission has concluded that the revised commitments have not responded adequately to competition concerns expressed by the Commission in its preliminary assessment. The Commission informed Google that, if it wishes to submit a new revised set of commitments in response to the concerns of the Commission, the Commission has at its disposal only an extremely short time in doing this, although, where Google does not advise the Commission reviewed commitments to resume the procedure laid down in article 7 of Regulation (EC) No 1/2003 ([http://ec.europa.eu/competition/publications/annual\\_report/2013/part1\\_ro.pdf](http://ec.europa.eu/competition/publications/annual_report/2013/part1_ro.pdf), 2013).

**Table 3. Activity report regarding economic concentrations, period 2010-2015**

Year	Interventions	Authorization in the first phase of procedure-simplified	Authorization in the first phase of procedure- not simplified	Authorization in the second phase of procedure – without fixing
2010	16	143	110	0
2011	8	191	108	4
2012	17	171	83	1
2013	15	166	86	2
2014	18	207	73	2
2015	22	222	75	1

Source: Report on competition domain policy, years 2010,2011,2012,2013,2014,2015, available at [http://ec.europa.eu/competition/publications/annual\\_report/index.html](http://ec.europa.eu/competition/publications/annual_report/index.html)

In the absence of effective policies of the European Union in the field of competition, single market may not achieve its full potential. Nothing would prevent private barriers to trade and competition to replace public barriers that the rules relating to the freedom of movement they have removed over the course of more than half a century, and no Member State would be obliged to distort trade and competition through a multitude of grants, a scenario which favours naturally the strongest countries in terms of budget. Restriction of European Union policy in the field of competition would undermine the single market, to the detriment of the potential growth of the European Union, whose economies-in particular in the euro area — are becoming more interdependent. At the same time, competition policy is also essential in order to enable the European Union to take drastic measures against the abuse of a dominant position, the cartels and concerted practices that harm consumers ([http://ec.europa.eu/competition/publications/annual\\_report/2012/part1\\_ro.pdf](http://ec.europa.eu/competition/publications/annual_report/2012/part1_ro.pdf), 2012).



**Figure 3. Activity report regarding economic concentrations, period 2010-2015**

*Source: figure based on table 3 data*

Economic concentration control introduction in 1989 - one of the most important milestones of the last forty years - must be assessed from the perspective of qualitative jump that the internal market has made previous to his previous official creation at 31 December 1992, after the entry into force of the single European Act in 1987. Competition policy has taken into account the new realities of the market, which offer greater opportunities for European firms on merger and acquisition of assets beyond national borders. A radical change was required, and the 1989 regulation for economic concentration, being a high peak of a campaign that the Commission started in 1983, has established a single checking office for economic concentration and acquisitions, having an European dimension ([http://ec.europa.eu/competition/publications/annual\\_report/2010/part1\\_ro.pdf](http://ec.europa.eu/competition/publications/annual_report/2010/part1_ro.pdf), 2010).

The year 2015 has been a prosperous one, the Commission authorizing the most numerous interventions, 22, and approving 222 authorizations in the first phase of simplified procedure, this representing more approved authorizations than in the period 2010-2015.

In 2014 have been approved the least authorizations in the first phase of non-simplified procedure from the analyzed period, i.e. 73. Year 2001 has been a significant year because it has been approved the most authorizations in the 2<sup>nd</sup> phase of the procedure- without fixing from the period 2010-2015, i.e. 4, but there have been approved only 4 interventions.

The least authorizations in the first phase of the simplified procedure have been recorded in 2010, i.e. 143, and the one's in the second phase of procedure - without fixing, in 2010, none has been approved.

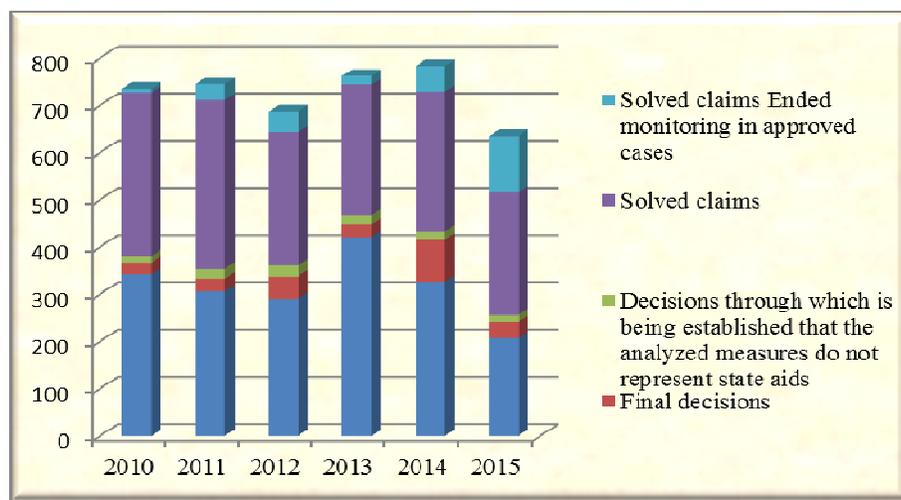
**Table 4. Activity report regarding state aids, period 2010-2015**

Year	Decision to not formulate objections	Final decisions	Decisions through which is being established that the analyzed measures do not represent state aids	Solved claims	Ended monitoring in approved cases
2010	342	26	13	346	8
2011	306	27	21	357	34
2012	290	48	23	282	44
2013	422	26	21	275	18
2014	326	90	17	296	54
2015	207	34	15	260	119

Source: Report on competition domain policy, years 2010,2011,2012,2013,2014,2015, available at [http://ec.europa.eu/competition/publications/annual\\_report/index.html](http://ec.europa.eu/competition/publications/annual_report/index.html)

The policy regarding state aid is modeling the ballance adjustments and restructuring restructuring in the financial sector. In the absence of EU norms regardign economic recovery and banking resolution, which are provided by the Directive regarding the recovery and resolution of banking institutions, the norms regarding state aid in the banking sector have established in an optimal way the conditions for banking institution resolution at EU level. From the begining of the cryses, the EU governments responded to the threatenings regarding financial stability by offering masif public aid to the affected banks. In the last five years, the state aid policy has been utilised for coordonating the state members reaction, for maintaining fair competitional conditions in the banking system and for guaranteeing the fact that salvation solutions are adopted in similar conditions cross EU territory.

The main elements for restructuring decisions have been the re-establishment of long term viabilities for benefiting banks, ensuring a fair repartion of duties and eliminating the competition distortion ([http://ec.europa.eu/competition/publications/annual\\_report/2013/part1\\_ro.pdf](http://ec.europa.eu/competition/publications/annual_report/2013/part1_ro.pdf), 2013).



**Figure 4. Activity report regarding state aids, period 2010-2015**

Source: figure based on table 4 data

State aid control has become an essential pillar of the single market, providing the certainty that businesses can compete on equal terms, regardless of where they are located, and that Member States do not engage in races of subsidisation, to their detriment and of general European interest. These races of subsidisation would not lead to a wastage of deficient resources, but would affect the cohesion of the European Union itself.

During the analyzed period, we can see that even though in 2015 was the highest number of approved completed monitoring cases, i.e. 119, also in the same year it was recorded the lowest number of complaints resolved, i.e. 260, and also the fewest decisions to not formulate approved objections, i.e. 207. The Commission has authorised the most decisions to not formulate objections in 2013, 422 respectively.

2011 was a significant year because there were approved the most numerous solutioned complaints, 357; also 2014 was a year registering the most approved decisions, in number of 90. Maintaining a competitive environment is a fundamental requirement in the conditions of market economy. Competition can be defined also as a concern for insurance and proper functioning of commercial game rules from both the perspective of the public authorities, economic actors and individuals. Competition policies permit the development of a regulatory framework within which Governments can maintain and stimulate competition. Such policies are based on the assumption that economic performance is affected by these regulations.

According to a report from the European Union for 2010, competition policy, in particular the application of the rules on State aid have played a key role in the response to essential crisis: it has allowed the granting of subsidies by the Member States, have reduced cases of competition distortion and have limited incentives for excessive risk taking.

Starting with 2011, all banks in the European Union which received support from the State (capital measures related to depreciated assets) will have to submit a restructuring plan. Furthermore, it is being developed a new framework for State aid to the salvation and restructuring of banks, which will be followed by a review of the General guidelines for rescuing and restructuring firms in difficulty.

Stimulating the involvement of the Parliament in policy initiatives in the field of competition-in the wake of its communication on the subject Ten years to ensure compliance with antitrust rules under Regulation No 17. 1/2003 of the Council, the Commission currently reflects on the modalities to strengthen the capacity of national authorities in the field of competition, so that they can be more effective in terms of ensuring that European Union antitrust rules are met. ECON Commission was informed of the public consultation launched in November 2015 in order to obtain feedback from a wide range of interested parties. In addition, the Commissioner took Vestager's commitment to encourage the full involvement of Parliament in this initiative, as far as the concrete contents of the proposal will allow this ([http://ec.europa.eu/competition/publications/annual\\_report/2015/part1\\_ro.pdf](http://ec.europa.eu/competition/publications/annual_report/2015/part1_ro.pdf), 2015).

In addition, the control of State aid represents an important tool to ensure that banks shall resume their main economic function of lending institutions for the real economy, resorting to conditions under the restructuring decisions. In Spain, 2013 was the first full year of implementation of the various restructuring plans approved by the Commission for banks that have received State aid in accordance with the program of financial assistance for a period of eighteen months approved in July 2012. Restructuring plans aimed at reorienting the activities of banks from riskier sectors of the credit-granting activities for SMEs and other entities. In the first half of 2013 were completed the so-called secondary liability exercises for banks that have received State aid, generating a capital of nearly EUR 13 billion for banks and reducing the need for additional public funds. In 2013, the Commission, in cooperation with the ECB and the IMF, has continued to provide financial assistance to those Member States which have requested this. Control of State aid has contributed to the economic adjustment programs from Ireland, Greece,

Portugal and Cyprus. The restructuring of the banking sectors, including the imposition of detailed financial sector conditions, was one of the main policy measures required by those countries ([http://ec.europa.eu/competition/publications/annual\\_report/2013/part1\\_ro.pdf](http://ec.europa.eu/competition/publications/annual_report/2013/part1_ro.pdf), 2013).

Europe 2020 strategy sets out concrete targets for the next decade in areas such as employment, education, migration, energy and innovation, as well as steps to ensure the effectiveness of resources in order to mitigate the impact of the financial crisis and return to growth in the European Union. Competition and a strong competition policy, elaborated and implemented by the European Commission and the Member States within the European competition Network (ECN), have a major role in ensuring the fulfilment of the Europe 2020 strategy objectives, competition having a direct impact on the key factors of increasing productivity.

#### 4. CONCLUSIONS

Maintaining a competitive environment is a fundamental requirement in the conditions of market economy. Competition can be defined as a concern for insurance and proper functioning of commercial game rules from both the perspective of the public authorities, economic actors and individuals. Competition policies permit the development of a regulatory framework within which Governments can maintain and stimulate competition. This policy is based on the assumption that economic performance IS affected by these regulations.

In the first decades of European economic community existence, the main priority was the gradual elimination of barriers imposed on Member States by national regulations. The rules on competition laid down in the EEC Treaty, in particular antitrust rules, have accompanied and supported this progressive removal of trade barriers. Therefore, antitrust rules have been applied strictly to prevent the artificial division of the internal market by companies, through practices such as dividing and sharing market, discriminatory pricing or obstacles to parallel trade.

State aid control has become an essential pillar of the single market, providing the certainty that companies can compete on equal terms, regardless of where they are located, and that Member States do not engage in races of subsidisation, to their detriment and of general european interest.

Commission policies regarding antitrust, economical concentrations and application with their bigger efficacy had brought into the spotlight the welfare of consumers, in particular through a deeper and deeper economic analysis. The Commission activity related to economic concentration regulation represented a road opening, eliminating the risk to damage consumers as a result of the creation and the consolidation of dominant positions through economic concentrations.

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