

## ESSENTIALITIES CONCERNING THE COMPETITION POLICY IN THE EUROPEAN UNION, 2012-2016 PERIOD

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***Abstract:** The paper “Essentialities concerning the competition policy in the European Union, the 2012-2016 period” presents the decisions adopted at European Union level in relation to the breach of the competition rules by the Member States. In the first part of the paper, I drew a parallel between the state aids granted at EU level for the banking system, deeply affected by the economic crisis, and the aids granted for supporting other sectors. Afterwards, I made a brief presentation of the main anti-competitive and of the decisions related to them in the analysed period.*

**Keywords:** competition policy, state aid, cartel, abuse of dominant position, economic concentration

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

### 1. INTRODUCTION

Competition is a specific behaviour of different property agents, independent of one another who, in order to achieve their objectives, enter into mutual cooperation and competition relationships with other agents.

At first glance, we can say that competition stems from people’s natural inclination to have, to possess as many goods and as much money as possible. According to Keynes: “the intense appeal to money-making and money loving instincts of individuals is the main motive force of the economic machine“, being based on private interest, personality and specific needs of each person (Popescu & Gavrilă, 2006).

Some are in the decision-making power of each company: advertising, improving quality, reducing costs, renewing the offer, granting certain to customers, etc. Some are legal, but illegal or immoral tools are widely used as well. Some other times, in order to cope with competition, express or tacit alliances between lobbying firms, the establishment of joint subsidiaries, partial mergers – are used - or the State is required to impose restrictions on foreign competitors (with the purpose of protecting the domestic market) or against those who intend to penetrate a particular industry or an established relevant market (Gavrilă & Gavrilă, 2009).

The European Union needs a competition policy to reduce potential conflicts between national jurisdictions, in order to ensure a compatible business environment at the level of the community formed by integration.

The common competition policy is the first truly supranational policy, where community institutions have been the most active and consistent, on an uptrend, and that



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“generates “federal” consonances for the member states.” The provisions on the common competition policy are established as firm obligations and will have the greatest impact on the countries that have recently joined the EU.

Competition rules at the European Union level are mainly based on 101,102 and 107 of the Treaty on the Functioning of the European Union. All these articles prohibit understandings or agreements between companies that can restrict or distort competition. According to article 101 of the Treaty on the Functioning of the European Union (TFEU) “all agreements between undertakings, decisions by associations of undertakings and concerted practices which may affect trade between Member States and which have as their object or effect the prevention, restriction or distortion of competition within the internal market, and in particular those which: directly or indirectly fix purchase or selling prices or any other trading conditions; limit or control production, markets, technical development, or investment; share markets or sources of supply; apply dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage; make the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts shall be prohibited as incompatible with the internal market.”

Article 102 prohibits the abuse of dominant position: “Any abuse by one or more undertakings of a dominant position within the internal market or in a substantial part of it shall be prohibited as incompatible with the internal market in so far as it may affect trade between Member States. Such abuse may, in particular, consist in directly or indirectly imposing unfair purchase or selling prices or other unfair trading conditions, limiting production, markets or technical development to the prejudice of consumers, applying dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage, making the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts.”

Article 107 refers to State aid granted by Member States. According to this article: “Save as otherwise provided in the Treaties, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the internal market”.

Under the antitrust policy, citizens are encouraged to provide information in relation to potential violations of the competition regulations by filing complaints based on Art. 7 paragraph (2) or Regulation 1/2003, or by supplying information in the context of market investigations. Consumers are even invited by the Hearing Officer to take part into hearings, if their interests are affected (Musil&Mesteacăn, 2011).

## **2. PRESENTATION OF THE MAIN ELEMENTS OF THE COMPLETION ENVIRONMENT IN THE EUROPEAN UNION, 2012-2016 PERIOD**

### **2.1. The State Aid**

The rules on State aid are intended to make sure that the aids granted by the States do not distort or threaten competition by favouring certain enterprises.

Due to the fact that the 2008-2009 financial economic crisis affected the banking system, I will draw a parallel below between the State aids granted to support the banking system and those granted in other sectors.

State aids granted in 2012 by the European Commission were meant to restore the activity of the banking system that had been deeply affected by the economic and financial crisis emerged in 2008-2009. During this crisis, part of the banks were restructured, while in order that other banks could carry on with their business, the Commission granted State aids for the stabilization of the banking system and the bank rescue. From the outbreak of the crisis and until the beginning of 2012, the governments of the EU member states granted to banks 1,600 billion eur, which money was used to cover banks' obligations, ensure liquidity and support depreciated assets.

On 31 January 2012 rules came into force on services of general economic interest services –SGEI – which supports public authorities, and on 08 May, 2012 the Commission launched the State Aid modernization – a programme developed with the purpose of promoting sustainable growth and supervising and ensuring the fact that the limited public budgets are allocated for solving the real market problems.

The SGEI Programme was applied for the first time in the postal field, the European Commission agreeing that France should support the post office La Poste with the amount of 764 million euro so that it could sustain its expenses generated by the large volume of postal services provided in the 2008-2012 period. The Commission approved this measure because the EU rules on State aid are observed, the expenses of the post office being only partially covered, and the post office did not get any advantage compared to its competitors ([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).

Throughout this year, the European Commission has also made important decisions concerning the restructuring of banks affected by the economic and financial crisis, thus contributing to the restoration of the long-term viability and eliminating competition at bank level.

In 2014, no State aid were granted for the recovery of the banking system, the European Commission focusing instead on the increase in the investment activity. Thus, in November, the Commission launched the European Fund for Strategic Investments with the purpose of intensifying investments in Europe. The value of the fund is 315 billion euro and the applicants, the potential beneficiaries, will be analysed by the European Commission before receiving these funds so that they are not overcompensated, i.e. receive higher funds than their expenses ([http://ec.europa.eu/competition/publications/annual\\_report/2014/part1\\_ro.pdf](http://ec.europa.eu/competition/publications/annual_report/2014/part1_ro.pdf), 2014).

The European Commission supports strategic investments by cooperation with the member states in relation to the State aid in order to intensify economic growth and to maintain a strong and correct single market. A new State aid framework is represented by the framework for research, innovation and development which supplements private investments. Such a State aid measure was approved by the European Commission in April and is related to the funding by the British Government of the SABRE project by 71 billion euro, a project aiming at creating a spatial launcher engine that would generate technological progress in the satellite-based service sector such as telecommunications. Analysing this situation, the Commission noticed that the funding in the private sector were not sufficient for the accomplishment of this project, which is why it approved the State aid amounting to 71 million euro.

State aids for the restructuring of the banking sector, for the coverage of capital deficits were also granted in 2015. Thus, the European Commission stated that the funding of the banking market by Cypriot authorities with the amount of 175 million euro observed with the European Union rules on State aids ([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 2016 the European Commission did not approve any State aid but found that Ireland had violated the rules on State aids in granting tax facilities to the Apple Company. More specifically, the taxes Apple was paying to Ireland were much lower than those paid by other companies. Thus, while in 2003 the company had paid a 1% profit tax, in 2014 its tax rate had decreased to 0.005%. Due to the fact that the IT company had received significant advantages compared to other companies, the Commission requested that Ireland recover the illegal State aid amounting to 13 billion euro plus interest. In relation to State aids, no fines are applied for the violation of the rules, the recovery of the illegally granted State aids being requested instead in order to eliminate the distortion of the competition created by the State aids in question ([http://ec.europa.eu/competition/publications/annual\\_report/2016/part1\\_ro.pdf](http://ec.europa.eu/competition/publications/annual_report/2016/part1_ro.pdf), 2016).

## 2.2. The cartel

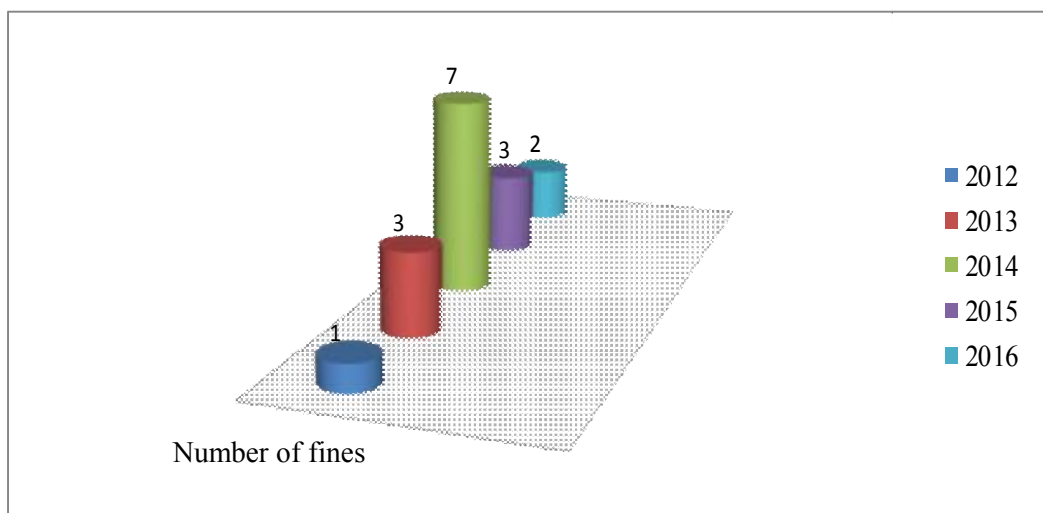
Another anti-competitive practice that distorts competition is represented by cartels. Cartels are manifested by the establishment of prices, the limitation of the production and the division of markets, the conclusion of understandings between companies, all of which restrict competition.

Taking these aspects into account, I will analyse below the penalties applied by the European Commission for cartels in the 2012-2016 period.

**Table 1. Number of cartel cases fined by the European Commission, 2012-2016 period**

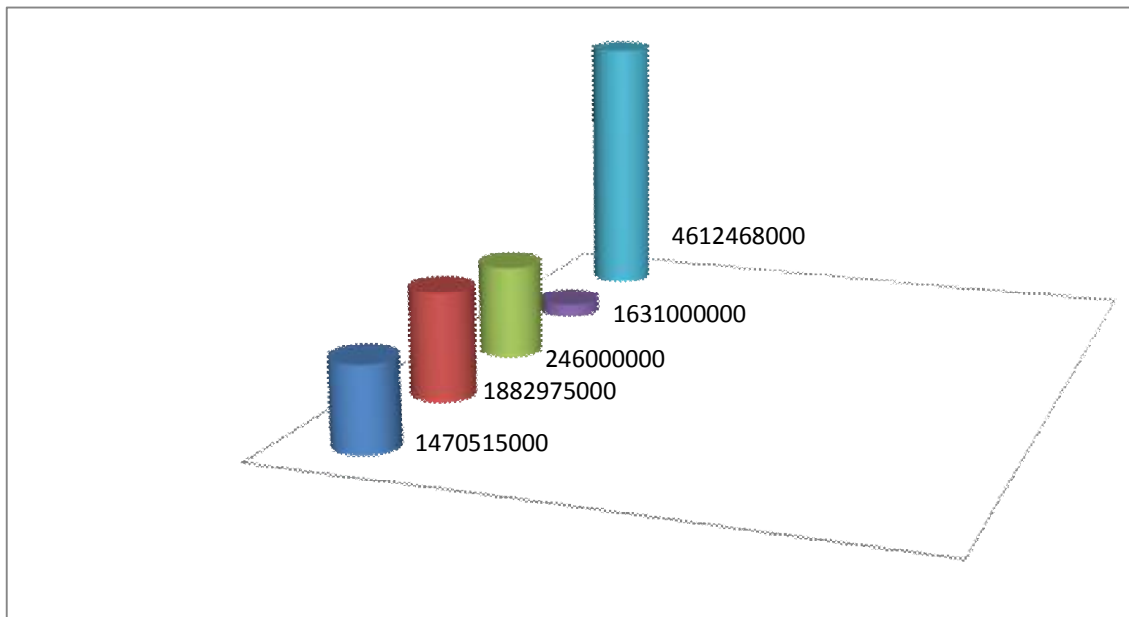
| Year | Number of fines | Total fines (euro) |
|------|-----------------|--------------------|
| 2012 | 1               | 1,470,515,000      |
| 2013 | 3               | 1,882,975,000      |
| 2014 | 7               | 1,631,000,000      |
| 2015 | 3               | 246,000,000        |
| 2016 | 2               |                    |

*Source: The annual reports of the European Commission in the 2012-2016 period.*



**Figure 1. Number of cartel cases fined by the European Commission, 2012-2016 period**

*Source: Prepared by the author based on Table 1.*



**Figure 2. Value of the fines applied by the European Commission for cartels in the 2012-2016 period**

*Source: Prepared by the author based on Table 1.*

In December 2012, The European Commission penalised an ensemble of international companies composed of the parent company and its subsidiaries, the fine applied being in the amount of 1,470,515,000 euro. The Commission took this measure because the group of fined companies imposed, throughout at least 10 years, the prices of the TV sets and computer monitors, which led to the emergence of cartels. A cartel was formed for the colour tubes of the TV sets, and the second cartel was formed for the monitor tubes. Tubes are an important component in the manufacturing of TV sets and monitors, representing 50-70% of the price. Thus, companies violated article 101 of TFEU by reaching understandings on prices and market shares. Among the fined companies there are the well-known Samsung, Philips, and Toshiba. This is the only fine applied by the European Commission in 2012.

In 2013, the Commission fined, with the amount of 141,791,000 automotive part suppliers in Japan, USA and even Romania- the company Leoni, due to the fact that they illegally supplied, based on anti-competitive understandings, electric cables to large automotive manufacturers, such as Nissan, Renault, and Toyota. These electric cables are used to send commands to the vehicle computer. The cartel lasted for 10 years, and the penalised companies adopted, in addition to the division of the markets and customers, setting the prices, other practices as well such as the refusal to supply automotive parts to certain customers ([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).

A cartel was also identified in the financial and banking field in 2013. This cartel comprised eight banks that manipulated the Libor and Euribor interest rates. Libor is the reference interest based on which banks in London financial centre borrow from each other. Euribor is the same thing in the Eurozone. Four out of the eight banks were involved in a single cartel, i.e. the one that influenced the euro interest, and six were part of the bilateral cartels that manipulated the yen Libor interest rate. The manipulation of the interest rates affected both the other banking companies as well as enterprises and clients. Both cartels lasted for three years, but took place in different periods, i.e. Euribor in 2005-2008, and Libor

in 2007-2010. Thus, due to this violation of article 101 of TFEU, the European Commission penalised the eight banks with the amount of 1,712,468.000 euro.

The Commission also discovered cartels in the food sector as well, where a few companies in the Netherlands whose field of activity was the shrimp trade set their prices and divided sales among them. This cost them 28,716,000 euro, a fine applied by the European Commission for the violation of article 101 of TFEU. The three cartels discovered by the Commission in 2013 represent 1,882,975,000 euro as a total ([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).

Two of the banks fined in 2013 for constituting a cartel in the banking field, were also penalized in 2014 with the amount of 52,000,000 euro for the same manipulation of the Libor interest, but this time not in yen, in Swiss Francs. These banks along with other two were also penalised with the amount of 32,000,000 euro due to the fact that had laid the foundations of a cartel on the margins of the Swiss Franc interest rate variations. In January 2014, the European Commission applied penalties in the amount of 114,000,000 euro to the four main manufacturers of polyurethane foam used to make couches and mattresses. The manufacturers in question set the foam selling prices from 2005 and until 2010. The purpose for the establishment of this cartel was that customers should bear the increase in the raw material prices and also to avoid the emergence of competition among the four penalised companies. In addition to the polyurethane foam and the electric cables, another automotive component was the object of a cartel too. The Commission applied a 953,000,000 euro-fine to two European companies and four Japanese companies for constituting a cartel on automotive ball bearings. For six years, these companies plotted in relation to the prices charged and the division of customers. German companies did not escape the Commission's investigations, the latter fining them with 30,000,000 euro for establishing a cartel with steel abrasives. The violation of article 101 consisted of coordinating prices in the entire European space in the steel abrasive sector. Another cartel discovered by the Commission had as an object of activity the manufacture of underground and submarine cables. The transport of electric power is made through these cables. For the division of the markets and the manipulation of the prices, the guilty companies received a 302,000,000 euro-fine. A last cartel fined by the Commission has its origins in the chip market for smartcard. Thus, the European Commission applied a 138,000,000 euro-fine for well-known companies such as Samsung or Philips, which reached illegal cartel-type understanding related to the prices charged. Due to the fact that the chips in question can be found in most devices used daily, their prices affect millions of consumers.

Consequently, 2014 is the year when the Commission applied most fines in terms of quantity, i.e. in the total amount of 1,631,000,000 euro, a significant amount that is, nevertheless, below the level of the one collected in 2013 ([http://ec.europa.eu/competition/publications/annual\\_report/2014/part1\\_ro.pdf](http://ec.europa.eu/competition/publications/annual_report/2014/part1_ro.pdf), 2014).

In 2015, eight manufacturers based in Finland, France, Italy, the United Kingdom and Germany were fined with the amount of 115,000,000 euro for establishing a cartel in the food industry. These companies reached tacit understandings on prices and markets and also on customers in relation to the food packaging trays, thus violating the European Union competition rules. The violation of article 101 of TFEU was also found in the sector of optical disc units that are used for reading or recording data stored on optical discs -DC, DVD, Blu-ray. Thus, eight optical discs suppliers were penalised with 116,000,000 euro due to the fact that they manipulated bids within tenders organized by manufacturers of Dell and HP laptops and computers. The fined companies planned the actions to be carried out within tenders, and also set the prices in relation to the purchase. The European Commission also applied a fine in

the amount of 15.000.000 euro in the financial sector as well, in February 2015. The brokerage company ICAP is the company that was fined for taking part into cartels on the yen reference interest. This situation was also found in 2013, when eight banks were fined for the manipulation of the Libor and Euribor interest rates. Thus, in 2015 the Commission applied 3 fines in the amount of 246,000,000 euro, the lowest fine in the analysed period. ([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 July 2016, the European Commission applied a 2,900,000,000-euro fine to truck manufacturers because they participated into a cartel in the medium and heavy truck manufacturing field for 14 years. In all those years, the companies in question set prices and coordinated the implementation of new technologies in the emission field, their clients being those who bore the expenses of those technologies. Out of the eight banks fined in 2013 for manipulating the Euribor and Libor interest rates, three were also fined in 2016 by the amount of 485,000,000 euro for establishing a similar cartel, more specifically they influenced the reference euro financial indicators. Although in 2016, only two fines were applied, their value is the highest from the analysed period, namely 4,612,468,000 euro ([http://ec.europa.eu/competition/publications/annual\\_report/2016/part1\\_ro.pdf](http://ec.europa.eu/competition/publications/annual_report/2016/part1_ro.pdf), 2016).

### 2.3. The abuse of dominant position

The abuse of dominant position is an anticompetitive practice resulting in the elimination of competitors. More specifically, a company can take advantage of its dominant position in a market by imposing the selling or buying prices of the products, limiting production or product sale, applying, in its relationship with its partners, unequal conditions at equivalent services, or concluding contracts for the acceptance of additional terms that have nothing to do with the object of the contract with their partners. All these illegal practices distort competition and affect consumers.

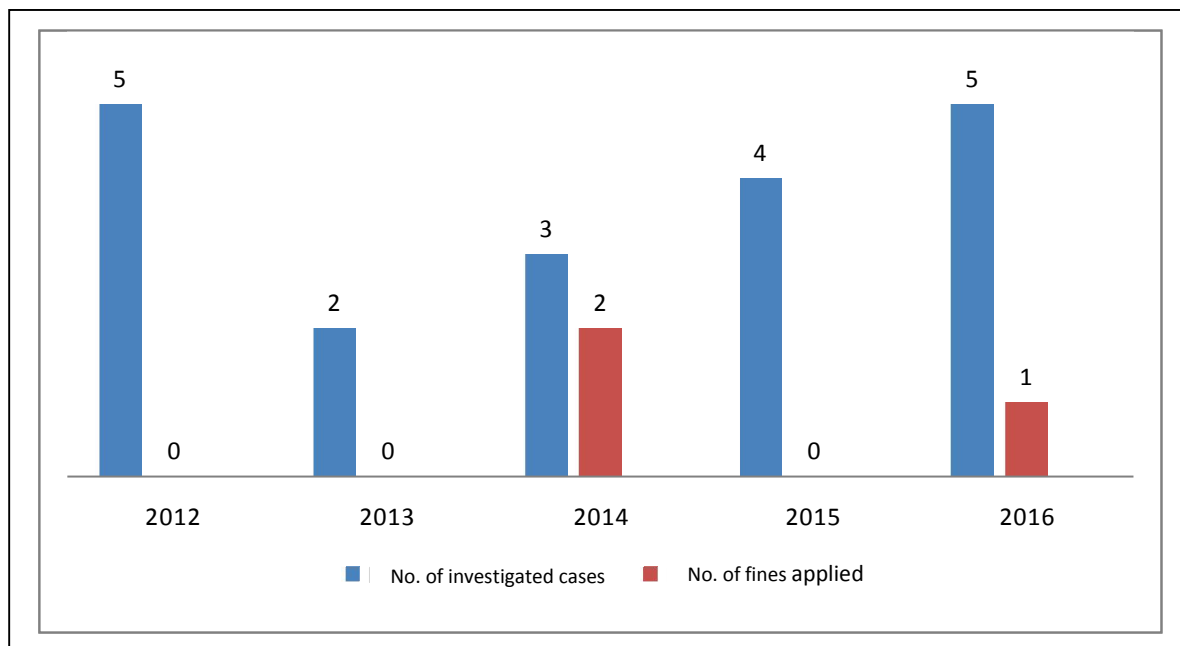
Given that in the analysed period, namely 2012-2016, the European Commission did not apply many fines for abuse of dominant position, I will present below the cases that are being inspected in terms of abuse of dominant position.

**Table 2. Number of alleged cases of abuse of dominant position that are being inspected by the European Commission, in the 2012-2016 period**

| Year | Number of investigated cases | Number of fines applied |
|------|------------------------------|-------------------------|
| 2012 | 5                            | 0                       |
| 2013 | 2                            | 0                       |
| 2014 | 3                            | 2                       |
| 2015 | 4                            | 0                       |
| 2016 | 5                            | 1                       |

*Source: The annual reports of the European Commission in the 2012-2016 period.*





**Figure 3. Number of alleged cases of abuse of dominant position that are being inspected by the European Commission, in the 2012-2016 period**

*Source: Prepared by the author based on Table 3.*

The European Commission analysed, in 2012, two potential cases of abuse of dominant position in the electricity field. A first case is represented by the OPCOM company who is suspected to have abused, together with its parent company – Transelectrica, its dominant position in the Romanian electricity market, discriminating companies depending on their nationality or place of operation, and thus violating art. 102 of TFEU. The actions carried out by this company consisted of creating a restriction to the penetration into the market of competitors which blocked the penetration on the spot markets of the Romanian electric power stock market of foreign electricity sellers. The second case refers to the Russian company Gazprom which is suspected of dividing the natural gas markets, thus preventing exchanges between the EU member countries and also the gas supply.

The Commission also opened investigations in the telecommunication field because it discovered abuses of dominant position. In this case, the telecommunication company in question originates in Spain and is suspected of charging too high prices in the relationship with its partners, compared to the prices charged to individual consumers. This anticompetitive practice influenced the activity of the competitors, who recorded loss in their attempt to sell their services to other clients.

Another potential case of abuse of dominant position is related to Google. Google risks showing signs of abuse of dominant position in four cases. A first case is related to the search engine, meaning that Google sends its clients the results of its own search engines, and the services provided by its competitors are not displayed. The second situation is related to the visual difference between the Google web pages and the pages of its competitors. At the same time, Google is accused of reaching understandings with certain partners in relation to the advertisements displayed at the time of the search. The last type of anticompetitive practices is related to the restrictions imposed by Google in relation to the Adwords platform. Through this platform, clients can bid for the place of an advertisement on a web page.

In the pharmacy field, the European Commission investigated an alleged case of dominant position. More specifically, the Swedish Pharmacy group Astrazeneca, operating in



the field of the development and sale of pharmaceutical products mainly produced for gastric diseases. Thus, the company is suspected of restricting the placing on the market of generic drugs marketed by its competitors, drugs that can be a cheaper alternative to an innovative drug in the fight against ulcer, patented by the investigated company.

Due to lack of evidence, these cases were only investigated by the Commission, who did not apply any fine ([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).

In 2013, the Commission opened a n investigation to determine whether the US telecommunication company -Motorola abused its dominant position in relation to the patents required to use certain standards in the technological field, especially that of mobile phones. Standards ensure the compatibility of the communication networks and mobile devices, and in order that a company may provide to the market products according to the standards, it has to have access to the appropriate technological patents. Following the investigation, the Commission ascertained that the investigated company holds a dominant position in the technological license market, but decided not to fine it ([http://eur-lex.europa.eu/legal-content/RO/TXT/HTML/?uri=CELEX:52014XC1002\(01\)&from=RO](http://eur-lex.europa.eu/legal-content/RO/TXT/HTML/?uri=CELEX:52014XC1002(01)&from=RO), 2014).

The well-known company Samsung was in a similar position, being suspected of abusing the rights on its patents in order to distort competition ([http://eur-lex.europa.eu/legal-content/RO/TXT/HTML/?uri=CELEX:52014XC1004\(01\)&from=RO](http://eur-lex.europa.eu/legal-content/RO/TXT/HTML/?uri=CELEX:52014XC1004(01)&from=RO), 2014). Following the investigation, the accused company declared that it would not restrict companies' access to its patents for a period of five years in relation to the smart phone technology used.

Just as in 2012, due to lack of conclusive evidence, there were no fines after the Commission's investigations ([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).

The investigations in then telecommunication sector continued in 2014, but unlike the previous years, when the Commission did not apply any fines, this time the investigated telecommunication company got a fine of 39 million euro due to the fact that, for a period exceeding five years, the company and its subsidiaries abused their power with the purpose of restricting and distorting competition in the telecommunication sector. The violation of art. 102 of TFEU took the form of the refusal to supply products to customers/rivals. Another form of abuse is represented by the decrease of the margin, a strategy that implies the existence of a strong company in the upstream market and one in the downstream market. Thus, the company charges one price for the upstream product, and its subsidiary another price for the same product in the downstream market, which leads to the elimination of competition. The margin compression can also take place by charging dumping prices in the downstream market and excessive prices in the upstream market. In addition to the 39-million fine, the company also got a 31-million eur fine because in 2003 it showed the same abusive behaviour.

A Bulgarian energy company also got supervised by the Commission. The Commission is afraid that the Bulgarian company might obstruct competition by imposing territorial restrictions in relation to the resale of electric power. Thus, the electric power supplied by this company can be resold only in Bulgaria, which influences the efficiency of the electricity markets of the EU member countries. We will stay in the electric power sector, where a US company is also investigated by the European Commission for abuse of dominant position. Being one of the main information suppliers in relation to electricity, oil products and fuels, the company is accused of setting the prices of these products with the purpose of manipulating public prices of oil products and fuels.

Thus, in 2014 out of the three investigations carried out by the Commission, one resulted in a fine ([http://ec.europa.eu/competition/publications/annual\\_report/2014/part1\\_ro.pdf](http://ec.europa.eu/competition/publications/annual_report/2014/part1_ro.pdf), 2014).

In 2015, the European Commission investigates a potential abuse of dominant power in the digital field, especially in the Amazon company – the largest company the largest retailer of electronic books. The company is suspected of being protected from competing with other online book distributors through the terms of contracts concluded with electronic book publishers. Through these clauses, the company in question requests suppliers to inform it on the conditions granted to its competitors and wants to benefit, in its turn, on similar conditions. These clauses limit competition among electronic book sellers that compete with greater difficulty with Amazon, which affect consumers by decreasing their possibilities of selection. In the digital sector the Commission also discovered a set of clauses that might violate the EU rules on competition. These clauses are related to granting licenses concluded between a TV company in Ireland and six US film studios. According to these clauses, only consumers in Ireland and the United Kingdom had access to the paid TV broadcasting services of the Irish company, while consumers in other EU countries could not access those services. This situation can constitute a violation of art. 102 of TFEU.

The last case of abuse of dominant position in 2015 is related to Google. The Commission investigated the operating system of the mobile devices - Android. Android is a mobile platform operating system promoted especially by Google and can be used by any person. Most mobile device manufacturers use Android together with certain Google applications, which is why certain agreements are concluded between Google and those manufacturers. Thus, the Commission investigated whether these agreements have restricted competition by restricting the penetration into the market of rival applications ([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).

Among the reasons why Google continued to be investigated in 2016 there were: favouring their own product comparison service in its pages by the search results; limiting display possibilities on third party websites for advertisements resulting from rival searches; granting license and financial facilities to mobile device manufacturers that use the Android operating system and pre-install Google Search on the devices in question.

Amazon continued to be accused of abuse of position when it requested electronic book suppliers to make available for it any electronic book at any time, when that book is requested by another book seller; or to benefit from the price or price discounts applied by the suppliers to other online sellers. Thus, Amazon competitors will no longer be able to stand out in terms of offers, thus leading to a weakening of the competition among online book sellers; the new companies of this type will be discouraged at the penetration into the market which can determine an increase and a reduction of consumers' choice possibilities.

The Irish TV companies continued to be investigated in 2016. The Commission continued to analyse whether the agreements concluded between this company and film studios restrict consumers' access to TV services with an anticompetitive purpose.

A new field is under scrutiny by the European Commission, i.e. railway transports. The Czech railway company is investigated by the Commission for being accused of charging dumping prices, i.e. prices lower than expenses with the purpose of eliminating or limiting competition. If it is proved guilty, the company will be fined, because due to the elimination of the competition in this field, passengers will be the most affected.

The last investigation of the Commission is related to an Austrian packaging waste company. This investigation resulted in the application of a 6-million eur fine because the fined company had restricted competitors' penetration into the packaging waste field, thus violating art. 102 of TFEU.

During the investigation, the Commission discovered that, in order to penetrate the waste management market, new companies had to have access to the national collection infrastructure, but the fined company did not allow access to that infrastructure, which was why the company was literally eliminated ([http://ec.europa.eu/competition/publications/annual\\_report/2016/part1\\_ro.pdf](http://ec.europa.eu/competition/publications/annual_report/2016/part1_ro.pdf), 2016).

### 3. CONCLUSIONS

State aid rules aim that the State aids granted by member states do not distort or threaten competition by favouring certain companies to the detriment of others. The case study performed is related to the 2012-2016 reference period. Part of the State aids granted in this period were dedicated to the restoration of the activity of the banking system deeply affected by the economic and financial crisis emerged in 2008-2009. Thus, due to the State aids granted by the European Commission, the banking system was stabilized, and banks had the financial resources to cover obligations, ensure liquidity and support depreciated assets. The decisions adopted by the Commission concerning the restructuring of the banks affected by the economic and financial crisis contributed to the restoration of the long-term viability and the elimination of the existing competition at banking level. Among the countries who received State aids for the support of the banking system there are: Spain, who received 57 billion eur to save eight Spanish banks; Italy, whose banking sector was supported with the amount of 2 billion eur to cover a capital deficit; Cyprus, whose banking system was funded with the amount of 175 million eur to cover capital deficits.

Another anticompetitive practice that distorts competition is that of cartels. Cartels are manifested by the establishment of prices, the limitation of the production and the division of markets, the conclusion of understandings between companies, all of which restrict competition. According to Article 101 of the Treaty on the Functioning of the European Union (TFEU) “all agreements between undertakings, decisions by associations of undertakings and concerted practices which may affect trade between Member States and which have as their object or effect the prevention, restriction or distortion of competition within the internal market shall be prohibited as incompatible with the internal market”

The abuse of dominant position is an anticompetitive practice resulting in the elimination of competitors. More specifically, a company can take advantage of its dominant position in a market by imposing the selling or buying prices of the products, limiting production or product sale, applying, in its relationship with its partners, unequal conditions at equivalent services, or concluding contracts for the acceptance of additional terms that have nothing to do with the object of the contract with their partners. All these illegal practices distort competition and affect consumers. Article 102 prohibits the abuse of dominant position: “Any abuse by one or more undertakings of a dominant position within the internal market or in a substantial part of it shall be prohibited as incompatible with the internal market in so far as it may affect trade between Member States. Such abuse may, in particular, consist in directly or indirectly imposing unfair purchase or selling prices or other unfair trading conditions, limiting production, markets or technical development to the prejudice of consumers, applying dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage, making the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts.”

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