

CONSIDERATIONS ON THE ROMANIAN COMPETITIVE ENVIRONMENT IN THE 2017-2020 PERIOD

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Abstract: *In the paper “Considerations on the Romanian competitive environment in the 2017-2020 period” we presented essential aspects of the activity carried out by the Competition Council in the analyzed period. In the 2017-2020 period, the Competition Council monitored the good unfolding of the competition in the market, thus opening and completing investigations annually, but also fining companies where it discovered activities likely to affect the competitive environment.*

Key words: *abuse of dominant position, investigation, competitive environment, economic concentration.*

JEL Classification Codes: E60, L4, D4.

1. INTRODUCTION

In a functioning market economy, companies compete with each other in order to expand their customer area. Competition itself is a mechanism that has the purpose of stimulating business entities that operate in the market, thus they are encouraged to manufacture as large a volume of goods as possible and offer a larger quantity of products, at low prices and with a higher quality, in order to be attractive to potential customers. In this way, business entities tend to reach their maximum potential. Competition supports the entry of new companies into the market, thus rewarding efficient companies and sanctioning inefficient ones. (Bâldan & Ungureanu, 2008)

In order to be able to hold a dominant position, companies must get along with other market participants or be interested only in their own interests, aiming to obtain the majority of the market.

Competition is a way of manifesting the economy on the market, in which for a homogeneous good and its substitutes, the existence of a single manufacturer becomes practically impossible.

The problem of competition is of interest to all market actors: manufacturers, consumers, intermediaries. Every company is concerned to be as competitive as possible, and for the net profit to be as good as possible. And the actions of a company do not depend exclusively on it, but on the actions of its competitors. In the absence of competitors, any company in the market would be able to set its prices freely at a high level.

Imperfect competition can occur in certain markets due to the lack of information of buyers and sellers about the prices and about the goods in the market.

Perfect competition is a model of economic theory. This model describes a hypothetical form of the market in which no manufacturer or consumer has the power to influence market



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prices. This would lead to an efficient result, taking into account the standard definition of the economy. (Dumitrașcu, 2012)

Direct competition is the easiest to observe and can be:

- brand competition - what takes place between companies that offer the same goods and services intended to meet the same needs. Differentiation between competitors is achieved in this case through the brand. Example: manufacturers of beer, gasoline, bread, etc.
- competition at the industry level – which takes place between companies that offer similar products that meet the same need differently. It is, in general, about substitutable products or services in consumption, and the competition is achieved through the qualitative differentiation of the products. Example: food industry, clothing industry.

Indirect competition is seen mainly from the market point of view and can be:

- formal competition – which takes place between companies that offer products/services that meet the same need in different ways. Example: the need to spend free time is satisfied by watching a movie or going on a trip.
- generic competition – which occurs at the level of the entire market, the companies actually disputing the income of the buyers, who are forced to prioritize their needs.

Our paper was prepared based on the reports published by the Competition Council for the analyzed period. In this paper I have presented some aspects related to the activity of the Competition Council in the 2015-2020 period.

In the 2015-2019 period, the Competition Council monitored the application and compliance with the rules in the competition field, thus, due to non-compliance with these rules, the Council found itself in the position of giving fines and carrying out investigations at business entities that were deemed non-compliant with the required measures.

The year 2019 was a year of very intense activity for the Competition Council, especially in terms of regulations, from the perspective of Government Emergency Ordinance no. 114/2018. At the same time, Romania's economic activity was growing and very dynamic. This was seen in the activity of the Competition Council in the field of economic concentrations. Furthermore, most of the cases under the attention of the Competition Council are related to cartels. Nevertheless, an increase in anti-competitive actions by the public administration has been noticed. Out of the 14 cases finalised in 2019, in 93% of them, the violation of the competition law was found and punished or the companies involved made a commitment to quickly restore competition in the market. The total value of the fines was 96 million lei, approximately 20 million euros, more than 90% of these sanctions being applied for abuse of a dominant position. For comparison, the institution's budget financed from public funds and non-reimbursable European funds in 2019 was 60.9 million lei (approximately 12.62 million euros), to which own incomes in the amount of 4.2 million lei (0.87 million euros) are added. The Competition Council finalised 5 sectoral investigations and made recommendations (some already taken over) for the improvement of the competition in the analyzed fields and, at the same time, two more sectoral investigations were initiated, so at the end of 2019, there were ongoing 5 sectoral investigations within the Competition Council. The number of authorized economic concentrations saw a sharp increase, reaching 75 compared to 57 authorized in 2018. In situations where the transactions generated suspicions related to the possible damage to competition in certain markets, the authority imposed conditions and taking commitments to ensure the preservation of a normal competitive environment. (<http://www.consiliulconcurentei.ro/wp-content/uploads/2020/09/Raport-2020-justify-final-web-flo-2.pdf>)

In 2019, a number of 9 investigations were initiated into possible violations of the competition legislation, out of which 5 were initiated ex officio by the Competition Council, with the remaining 4 were initiated following complaints. As in previous years, most investigations focus on possible horizontal agreements, generally this type of anti-competitive practice having the most harmful effects on competition. 8 out of the 9 investigations that were initiated were related to the violation of the national competition legislation, and one to both the national and the EU one. (<http://www.consiliulconcurentei.ro/wp-content/uploads/2020/09/Raport-2020-justify-final-web-flo-2.pdf>)

2. RESULTS IN THE COMPETITION FIELD IN THE 2017-2020 PERIOD

The competitive environment is "the totality of conditions, factors, economic combinations within which competition is carried out in order to obtain favorable influences on the functioning mechanism of the market and, in ultimately on the consumer protection, on the standard of general well-being". (Bâldan, 2007)

One of the problems of this environment is weak regulation, especially in Romania. Inadequate supervision or insufficient attention by public authorities can lead to economic failure or monopoly.

As we can see in Figure 1, out of all the investigations carried out in the 2017-2020 period, most of them target horizontal agreements, these types of anti-competitive practices being deemed some of the most harmful.

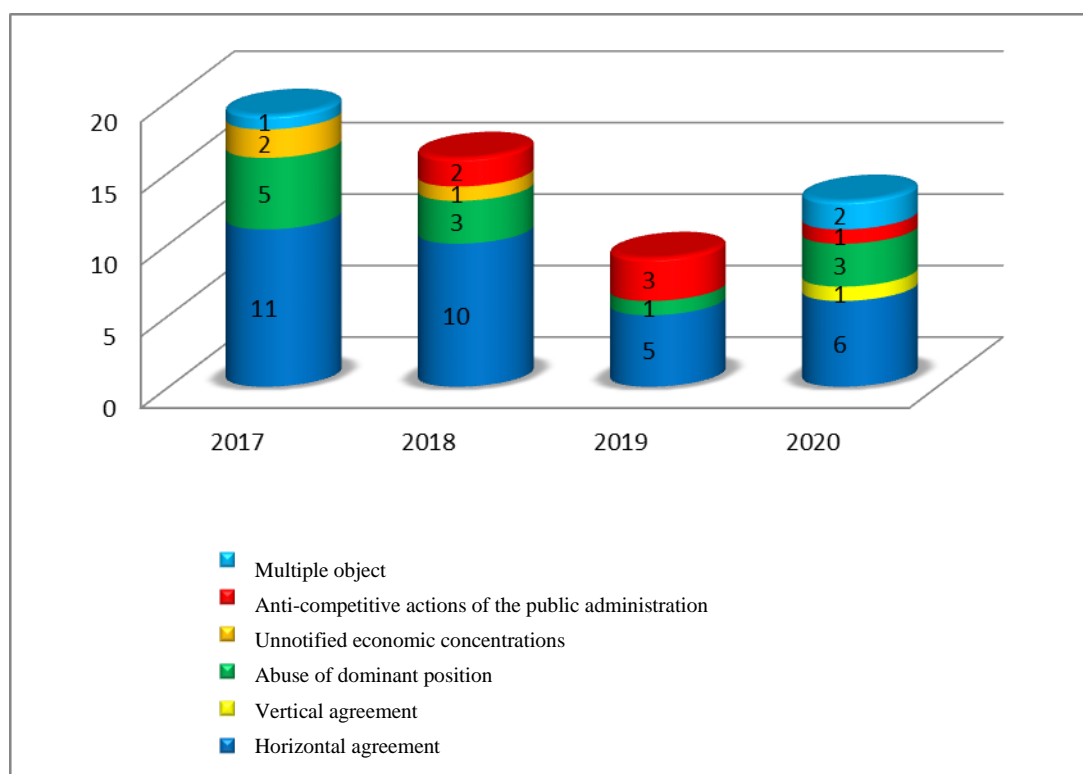


Figure no. 1. Number of investigations launched, depending on the targeted anti-competitive practice (2017-2020)

Source: <http://www.consiliulconcurentei.ro/wp-content/uploads/2021/04/final-Raport-anual-2020-v2modif.pdf>

In 2017, 19 investigations were initiated in relation to potential violations of the competition legislation. Most of the investigations were initiated ex officio, which shows that the

institution monitors the markets very carefully. Most of the investigations related to the possible violation of the competition law finalised in 2017 were horizontal anti-competitive agreements, as in the case of the initiated investigations.

In 2018, 16 investigations into possible violations of the competition legislation were initiated, 75% of them being initiated ex officio, which proves a careful monitoring of the markets by the competition authority. Most of the investigations concerning the possible violation of the competition law, initiated in 2018, target horizontal anti-competitive agreements (10 cartel investigations), i.e. more than 60% of the total initiated investigations.

In 2019, a number of 9 investigations were initiated in relation to potential violations of the competition legislation, out of which 5 were initiated ex officio by the Competition Council, with the other 4 were initiated following complaints. As in previous years, most investigations aim potential horizontal agreements, generally this type of anti-competitive practice having the most harmful effects on competition. 8 out of the 9 investigations initiated concerned the violation of the national competition legislation, and one both the national and the Community one.

2020, the number of initiated investigations increased compared to the previous year (by approx. 45%), despite the unfavourable context represented by the SARS-CoV-2 pandemic. As in other years, most of the investigations were initiated ex officio (8 investigations initiated ex officio as compared to 5 following complaints). Out of the 13 investigations initiated in 2020, most target horizontal agreements, these types of anti-competitive practices being deemed among the most harmful.

3. BIG DATA TECHNOLOGIES ARE VERY USEFUL, BUT THEY CAN LEAD TO ANTI-COMPETITIVE BEHAVIOURS

The use of Big Data technologies is becoming increasingly important for growing the competitiveness of companies, but at the same time it can lead to artificially setting and maintaining prices at a high level, as highlighted in the study on the effects of the use of Big Data platforms on competition carried out by Competition Council.

What are Big Data technologies?

The huge volumes of digital data generated by recent technological developments can no longer be processed and interpreted with traditional means. Consequently, technologies have been developed that allow the processing, analysis and effective and fast management of the large and varied data sets available at the level of organizations - Big Data. Big Data technologies are transforming traditional business models and the decision-making process from one based primarily on the decision-maker's experience to one based on the use of artificial intelligence and predictive analytics.

Advantages vs. risks

The use of Big Data technologies brings competitive advantages to companies, such as the adjustment, in real time, of the price level with changes in the demand/supply ratio, thus ensuring the rebalancing of supply and demand. At the same time, however, within the research, potential risks of the use of Big Data technologies for the competitive environment were identified. For example, by using identical algorithmic models and a common database, companies can align their prices in real time with those of competitors and thus maintain artificially high price levels at the expense of consumers. Furthermore, competition in the market may also be limited by restricting or denying access to data to competitors or by making access to data conditional on the use of own analytics services. The analysis of the competition authority showed that Big Data technologies are very much used by digital platforms that mediate the alternative transport of people (ridesharing), but also in the communications sector

and by large retailers, but much less used in the banking sector, within price comparison platforms and e-commerce.

The degree of digitization of the Romanian economy

The Romanian data market (where digital data is traded in the form of products or services) has grown, with the average compound annual growth rate (CAGR) being 26.4%, well above the European average (CAGR 7.4%) . This shows an orientation of the economy towards the use of Big Data technologies, the introduction of artificial intelligence and a continuous process of digital transformation. The study also indicated that Big Data solution providers are, in particular, large companies with foreign capital, with or without a presence, through subsidiaries/branches, in Romania. Domestic suppliers are generally companies of the start-up category, which develop dynamic algorithms and artificial intelligence for specific analysis needs, or implementers of projects with Big Data solutions developed by third parties. From the perspective of the business model, we can see the implementation of different strategies: if companies with Romanian capital focus on the development and implementation of new Big Data solutions, those belonging to groups of companies with foreign capital generally distribute Big Data solutions developed at group level, providing clients with services of adapting them to the specific needs of each client, either directly or through approved partners.

Barriers

Once purchased by the beneficiaries, Big Data solutions require support and maintenance services in the process of their implementation, which can generate the phenomenon of captivity in relation to the supplier of the respective Big Data solutions. Although the implementation of Big Data solutions brings valid benefits to any sector in which they are implemented, investments in digitization are substantial, they involve significant resources, specialized personnel and long implementation times.

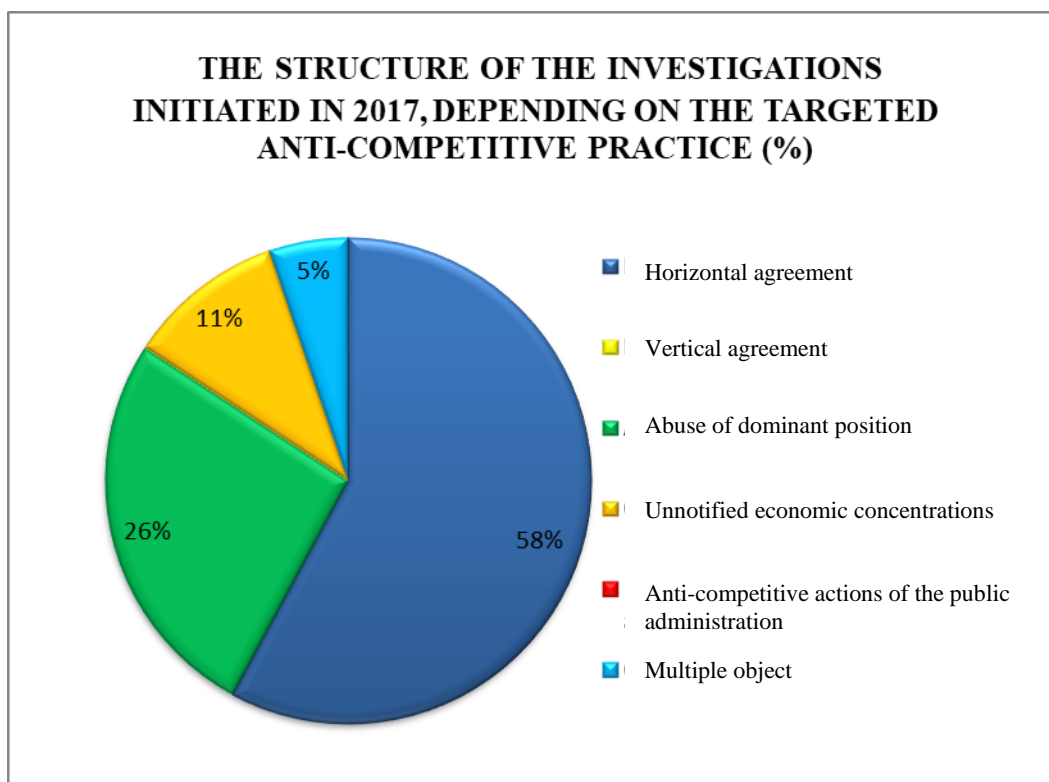


Figure no. 2 Structure of the investigations initiated in 2017, depending on the targeted anti-competitive practice (%)

Source: <http://www.consiliulconcurentei.ro/wp-content/uploads/2021/04/final-Raport-anual-2020-v2modif.pdf>

By analyzing figure no. 2, we can see that at the structural level, 58% of the investigation cases initiated in 2017 were related to horizontal agreements. Cases of agreements with multiple objects and vertical agreements accumulated 16% of the total of those initiated in 2017.

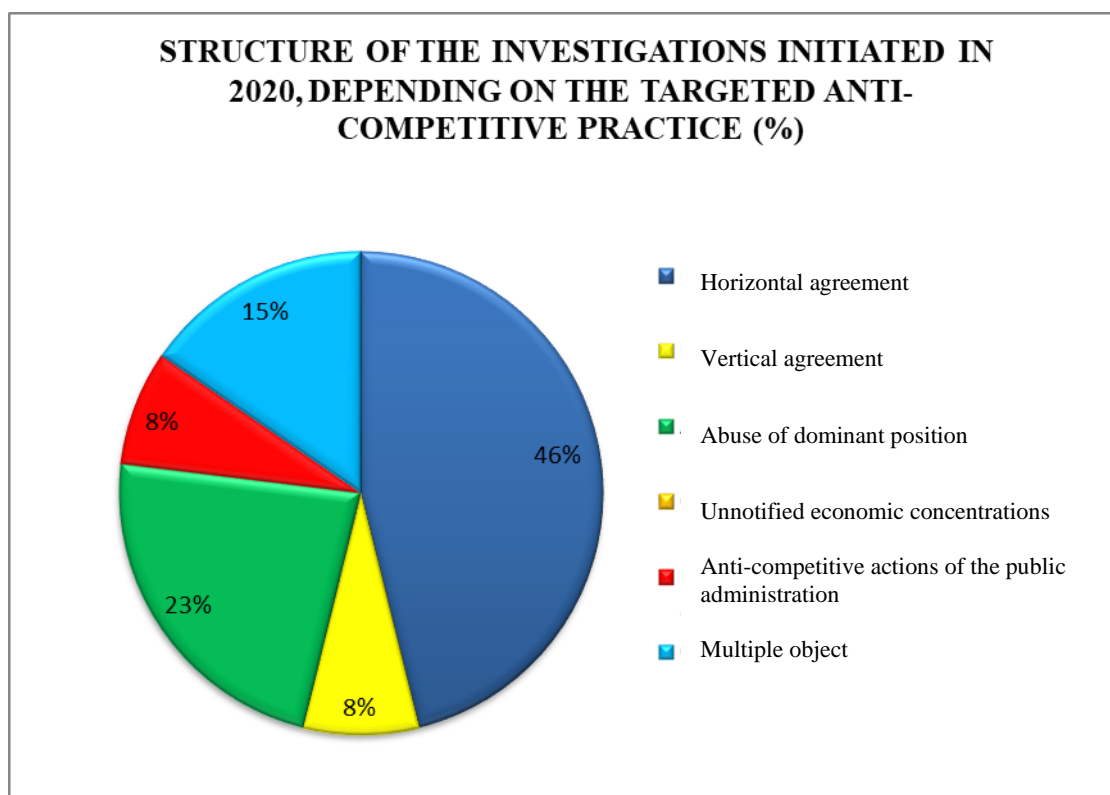


Figure no. 3 Structure of the investigations initiated in 2020, depending on the targeted anti-competitive practice (%)

Source: <http://www.consiliulconcurentei.ro/wp-content/uploads/2021/04/final-Raport-anual-2020-v2modif.pdf>

By analysing Figure no. 3, we can see that at the structural level, 46% of the investigation cases initiated in 2020 were related to horizontal agreements.

The cases of agreements with multiple objects and vertical agreements accumulated 23% of the total of those initiated in 2020, representing the types of investigations that were absent from the structure of investigations initiated by the competition authority, at least in the last two years.

By comparing Figure no. 2 to Figure no. 3 we can see that the number of investigations initiated in 2020 decreased compared to 2017 (by approx. 31%).

4. CONCLUSIONS

The changes made with the aim of limiting the negative effects of the COVID-19 pandemic and supporting the economic recovery

The exceptional situation generated by the context of the pandemic determined rapid and large-scale interventions in order to mitigate the negative consequences on labor markets and other vulnerable segments of the economies of the EU member states.

The temporary framework for supporting the economy in the context of the COVID-19 epidemic provides for several types of aid, including:

- direct grants, selective tax advantages and advance payments;
- state guarantees for loans contracted by enterprises from banks;
- subsidized public loans for enterprises;
- guarantees for banks that direct state aid to the real economy;
- insuring short-term export credits;
- aid for research and development relevant to COVID-19;
- aid for investments in the manufacture of products relevant to COVID-19;
- aid in the form of deferral of tax and/or social security contributions;
- aid in the form of salary subsidies for employees, granted in order to avoid layoffs during the COVID-19 pandemic;
- recapitalization measures;
- support for the uncovered fixed costs of enterprises that obviously need help;
- allowing the conversion of loans and other repayable forms of aid.

In conclusion, the main aspects that we noticed during the analysed period were:

- ✚ The annual differences between the results in the competition field,
- ✚ Big Data technologies with their advantages and risks, and their influence on the Romanian economy.
- ✚ The changes made with the aim of limiting the negative effects of the COVID-19 pandemic and supporting the economic recovery.

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