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Romania's Competition Council and its contribution to EU competition policy

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Romanian Competition Council: Accomplishments and Perspectives
Bucharest, 30 May 2013

Mr Prime Minister,

Authorities,

Ladies and Gentlemen:

It is an honour for me to attend this event organized by the Romanian Competition Council and I would like to thank Mr Chiritoiu for his kind invitation.

One could say that today and tomorrow Bucharest will be the capital of Europe's competition policy. In addition to our conference, later today we will also have the plenary meeting of the European Competition Authorities.

We will discuss the centrality of competition control for a thriving economy, transparency, and the action of competition watchdogs in vital sectors such as healthcare and the digital economy.

These are among the most important social and economic implications of competition policy, and they apply equally to the whole of the Union as well as to its members, each with its national specificities.

For a country like Romania, 'national specificities' means above all the transition to a market economy and the subsequent accession to the EU. And it seems to me that the path the country has taken on this historical transition is bearing fruits.

Indeed, according to the Commission's Spring 2013 Forecast, real GDP growth in 2014 is expected to accelerate to 2.2 percent on the back of structural reforms paying off.

Similarly, being part of the EU gives a big boost to a country's prospects of institutional, economic and social development.

The European Semester foresees that specific recommendations are addresses to all Member States, including Romania, and the Commission adopted yesterday its proposals for these recommendations.

This means that European integration works on many levels, but today I will focus on the continuing integration of our economies in the Single Market.

In this regard, I think that the most effective legislation and the most effective enforcement are those that apply across the entire internal market.

In order to achieve this purpose, national regulations and well-functioning authorities – including competition agencies – are equally essential, because this is the best way to capture Europe's precious diversity.

In the world of competition enforcement, the different needs are easily reconciled thanks to a system in place since 2004 that ensures close, comprehensive, and smooth coordination of the different agencies across the Union.

I must say that our record on this point has been quite good so far. The collaboration among Europe's competition authorities within the European Competition Network is excellent.

The Consiliul Concurenței is an active member of the network and has regular exchanges with the services of DG Competition in Brussels. In addition – and this is another specific feature – the council is also the point of contact with the European Commission on State aid issues.

So, let me say a few words on the cooperation between the Romanian Competition Council and the European Commission.

The Competition Council has a good enforcement record. In addition, it has contributed to the adoption of the new Competition law in 2011. This reform brings the Romanian regime into line with the EU model and has helped to foster competition in the country.

This is crucial precisely for the legal certainty and predictability the next panel will discuss, because the European Commission and the Competition Council apply the same EU law. In fact, all the members of the ECN take a united stand against anticompetitive behaviour.

The European standards we all aspire to also imply that competition authorities are independent and transparent, and it is important that they are equipped with sufficient legal tools and human and financial resources to carry out their difficult tasks.

Established in 1996, Romania's Competition Council is a young agency, therefore it is a dynamic and modern one. This is reflected, for instance, in the implementation of the Action Plan resulting from the Functional Review conducted by the World Bank – which the Commission has endorsed.

Apart from the review of the Competition Law in Romania, which – as I said – took place in 2011, the Action Plan includes other, more specific measures, such as – for example – the introduction of settlement instruments and ECN waivers for confidential information in merger cases.

These developments are crucial for the future success of the work the Competition Council is carrying out, and for the effective enforcement of competition rules in Romania.

The council has been among the most active ECN members: since 2007, 24 envisaged decisions have been submitted and 38 new cases concerning Articles 101/102 have been opened.

Recent examples of its action cover a range of sectors including telecommunication services, petrol distribution and spare parts for motor vehicles, pharmaceuticals and consumer goods.

The council's monitoring exercises also cover a number of important sectors. Recent studies have been devoted to the sectors of electricity, rail freight transport, insurance, banking and food retail.

As to its work on the European stage, the Competition Council is in constant dialogue with the European Commission and is committed to a well-functioning ECN, participating in 22 ECN working groups and subgroups as well as the Plenary.

To illustrate the results of this commitment, let me mention its involvement – together with the other ECN members – in the investigative and decision-making powers reports of October 2012, which provide an overview of the different systems and procedures for antitrust investigations within the ECN.

On the basis of this level and breadth of activity, the challenges for the future are threefold: first, maintaining a robust enforcement record; second, identifying the right priorities, especially in the most sensitive sectors; and – third – investing enough resources into advocacy, because prevention is better than cure.

Ladies and Gentlemen:

As I said earlier, the Romanian Competition Council is also the central contact point for the European Commission for State aid cases. It acts as central coordinator and carries

out training for the various actors granting aid in Romania, which is a set up welcomed by the Commission.

I understand that the council is starting to develop a database for State aid granted in Romania. This is a step that we strongly encourage in the context of the State aid modernisation strategy, which will lead to better compliance and ultimately to more effective public spending.

I also understand that there are plans for legislative amendments which will allow the Competition Council to carry out controls in parallel to the controls by the granting authority, which is a really positive development. The best practices initiated by Member States on their own are among the main sources of inspiration for the Commission.

Of course, the basic principles remain. It is important for authorities to understand that artificially cushioning national champions will not make these companies – or the economy – any stronger.

The Commission is fully aware of the significant efforts that Romania has undergone in the past years to restructure some of its most sensitive industrial sectors – such as the steel industry.

However, additional efforts are required with regard to State-owned companies to prevent them from becoming too burdensome a liability for the State. In this respect, let me stress the importance of open, transparent and non-discriminatory privatisation procedures.

Some issues need to be looked at carefully also in the energy sector, such as the preferential tariffs to large economic operators.

Following a complaint we received in 2011, we opened a formal investigation in three State aid cases concerning alleged preferential electricity tariffs granted by the State via its hydro electricity producer – Hidroelectrica – to electricity traders, thermo electricity producers and industrial producers. We are also investigating two similar cases concerning alleged preferential tariffs granted to ALRO Slatina and ArcelorMittal.

Granting State aid can be approved under EU law and under certain conditions, provided the support is duly notified to the Commission in full transparency.

One example of aid that the Commission has approved for Romanian companies is the 2011 support scheme for renewable energy sources, based on Green certificates. The Commission supports schemes based on tradable green certificates, because they are generally more pro-competitive than other types of schemes.

However, since its introduction, the scheme was modified several times, and further changes are planned. Let me remind you that when changes to an aid scheme affect its substance, the modifications must be notified and approved by the Commission before they can be implemented.

I mentioned earlier the State aid modernisation strategy, which is in full swing at the competition department of the European Commission. Before closing, let me say a few words on it.

On 8 May 2012, the Commission adopted a Communication on State Aid modernisation, which sets out the principles for the reform of our State aid policy across the board.

The reform involves a number of guidelines including on Broadband – approved at the end of last year – Regional aid, the next in line, and – at a later date – the guidelines on Risk Finance, R&D&I, Energy and Environment, Aviation, and Rescue & Restructuring aid.

The reform strategy pursues three main objectives:

- facilitating growth-enhancing aid in line with the Europe 2020 strategy;
- simplifying State aid rules; and
- focussing enforcement on the cases with the biggest impact on the internal market.

In addition, we are working on the review of the Procedural and Enabling Regulations, and the General Block Exemption Regulation.

The latter specifies in which categories Europe's public authorities can grant aid without notifying the Commission. The rationale of these exemptions is that certain types of aid that pursue objectives of common interest are considered automatically compatible with the internal market, which is the only condition to approve aid.

Ladies and Gentlemen:

I would like to close with a final look at the implications of competition policy for the internal market.

The Single Market has brought tremendous benefits and prosperity to the European citizens. It is our economic masterpiece and it is our political masterpiece as well, because on it we have built the integration of many other policy areas.

However, over two decades since the original deadline set by the Single European Act, the Single Market is still work in progress.

Even as we speak, other Commission departments and our sister EU institutions are working hard to deepen it and complete it in vital industries; such as financial markets, telecoms, energy and transport.

These legislative and implementation efforts at European level go hand-in-hand with the work of DG Competition and of the national competition authorities in the Member States, because it is our task to preserve healthy competition in the internal market in actual fact.

It has never been more important that the Single Market is a level playing field for the over 20 million companies that operate in the EU and for the 500 million people they serve – including the 21 million who live in Romania.

Only if the internal market is really integrated, competitive and a level playing field, will it deploy in full its potential to generate growth, create jobs and help the poorer regions of the Union catch up with the rest.

In these uncertain times for our Union, this is the single most important contribution that the robust and fair implementation of competition law can bring to the European project.

And I want to congratulate the Romanian Competition Council and Romanian authorities for their contribution to make this project deploy its full potential.

Thank you.