



Competition enforcement in Romania – the status

- We do not have to re-invent the wheel but we need to convince people to use the wheel. -

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- ❑ Romanian Competition Law (RCL) and the secondary legislation have been radically amended and supplemented in 2010-2011.
- ❑ Among the changes: introduction of a presumption of dominance (40%), introduction of a minimum level of fines (0,5% for breach of prohibitions and 0,1% for procedural fines), introduction of commitments and settlements, enhancement for the criminal sanctions.



Problems that we face:

- ☐ Poor competition culture – undertakings complain and get together (cartelise) in order to get rid of the “unfair competition” i.e. “competition which does not fits into our preferences”.
- ☐ A significant tendency of intervention from the State into the working of the economy – this is partly a legacy of the communism but also the expression of weak and sometimes “captured” public authorities.



Problems that we face:

- ❑ "Omerta" of the cartelists still very strong → leniency is at very low levels, although it is valid also for vertical restraints. Half of the explanation lies in the communist regime legacy – the infamous "informants". The other half of the problems belongs to the Romanian Competition Council.
- ❑ A reluctance of our staff to get involved in abuse of dominance and, generally, effects-based cases.



Our strong points:

- ☐ We are ambitious and persistent.
- ☐ We benefit of the expertise of the European Commission and the ECN.
- ☐ We have a streamlined merger notification process – RCC has been ranked second in EU, after Germany, in The Global Merger Control Index 2013 of the Center for European Law&Economics.

Our strong points:

- ☐ We started an ambitious internal reform process, assisted by the experts of the World Bank.
- ☐ We have a very good communication with the business community and an increased level of appreciation in the public opinion.



Our strong points:

- ❑ We counter anticompetitive regulation on two levels:
 - Through advocacy (persuasion) of the issuers of such norms.
 - Through investigations and infringement decisions against the issuers – based on a specific provision of RCL – article 9. The anticompetitive provisions is affected by absolute nullity (which may be invoked by anyone affected, directly in front of any court).
 - Article 9 is rather a “*wooden sword*” in the hand of the authority but it does not matter too much as we use it properly.



RCC priorities:

- ✓ To keep the pace of the competition enforcement and make leniency work.
- ✓ To get rid of all the "*holly cows*" (i.e. undertakings which think they are untouchable due to various reasons).
- ✓ To reinforce our internal structure and expertise (especially economical expertise).
- ✓ To reinforce our cooperation with the business community and the regulators, including reinforcing the cooperation with the criminal investigation authorities.



Thank you!

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