Changes in the business environment' perception as to the new EU competition policy approach. The case of Romania

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Abstract
In the new context of globalization, business envionment must be aware that the liberalization of the markets, the deregulation and the privatization process in all the economic fields may increase the competitiveness only if the implications of competition policy are known and realized enough. Completing the single market remains one of the EU's big unfinished tasks, and competition policy is an essential weapon in this battle. Lately, there has been mentioned in the literature and by high officials, the existence of a ***"competition discipline and of a culture in the competition field as an obligatory and necessary requirement which might allow a deeper accession to the EU"*** *(Monti, 2001). The proper understanding and interpretation of legislation is a key element but not the single one in the context of a new and more successfull approach of the EU competititon, that envisages relaxing the responsibilities of competition authorities in this field by increasing the commitment of the companies towards the competitors, authorities and especially the consumers.*
In this regard, the assessment of the degree of information and knowledge of the business envronment regarding the enforcement of the competition rules and their impact on their performance is an essential tool. The paper is based on a original and qualitative research and aims at emphasising the increased necessity of the promotion of a competition culture for the competitiveness of the Romanian business environment on the European level in the new context of accession. This will help Romanian business to face the competition challenges within a more extended single European market, as an essential issue of the free market economy status recently granted, and accordingly to the most important EU objectives set up at Lisabon to become the most competitive economy in the world up to 2010.

Keywords: list, up, to, six, key, terms

Introduction

In the Porter's vision, **competition is the essential factor in determining the success or the failure of the companies. It determines the opportunity of those activities that contribute to its performance, such as innovation, a sole culture or a smooth implementation**. The idea of this research comes from the belief that without competition or the knowledge of the competition rules there is no appropriate climate for the development of the business environment in order to contribute at functional market economy. The market economy was the most important goal of Romania, lately, the essential point for the accession, but there is still a key element for UE in order to accomplish the Lisbon strategy.

For an economic agent, competition represents a mobilizing factor which determines him to adapt to the requests of the business environment and in the same time to make a progress. Being an undisputable factor of progress, the competition must be recognized, understood and mostly, maintained in the limits of fair-play. Many times, in the attempt to win or to maintain an advantageous position on the market, the economic agent will use a whole arsenal of practices (inclusively and mostly of them from the marketing field), most of them anticompetitive, with a negative impact on the normal competing environment, which also affects the well-being of the consumer. The policy in the field of competition is the one that defines these behaviours and penalizes them depending on the amount of their negative impact, by creating a complex and coherent legislative and institutional mechanism, having as a main purpose the efficiency increase (Odudu, 2003).

Independent of the efforts at international level regarding the harmonization of the regulations and norms in this field, the cultural factor, the traditions and customs from the economic field seem to rigorously hall-mark the way in which the policy is conceived and implemented in the field of competition. Even if there are similarities, it is known that in every region, each legislation reflects the values of its own jurisdiction, of its own economic, social, political and historical vision. The United States and Japan are two countries in which competition is perceived totally different, despite the common elements and objectives that have as common goal the promotion of efficiency and well-being on the economic level and are defined by the general international framework in the field.

Within the framework of the European Union the necessity of assuring the appropriate conditions of the free competition constituted the reason for creating a unique internal market. The rules in the field of the competition do not represent a purpose in itself, but a premise of the efficient functioning of the unique internal market, **a system that can assure an undistorted on the internal market** (article 3, paragraph 1g of the Treaty CE). The concept of internal identified with the essence of politics in the field of competition and namely with the encouragement of the economic efficiency through creating a favourable environment for innovation and technological progress, which can protect the interests of the consumer (Pinon, 1994)

In the European structure, all important strategies (including the Lisbon agenda) had as premise and prime objective the assuring of free competition, whereas the means and instruments utilized for its reaching were permanently revised, modified and adapted in a new context.

> We have already created a Unique European Market and many barriers have disappeared from the way of commerce and development. If Europe must reach its full development potential, it is necessary to be ensured that the Unique Market offers an environment that compensates the innovative businesses, that invest in research and development and which provide product of top quality and at low prices. This is the role of competition. Competition leads to contest, economic growth and productivity. A policy for efficient and well-managed competition is not only a mandatory premise but also a key instrument for realizing the Lisbon Agenda (Kroes,2004)

This millennium start constitutes a challenge for many countries: the integration in the European Space implies not only sharing common principles and values, but mostly the capacity to face the competitive forces from the inside of the European Union. Starting from these essential criteria, the adhering countries (among them is also Romania) should construct an institutional and legislative system, that can offer not only the possibility of fulfilling the criteria for adhering, but mostly the certainty of surviving after this moment, on a market of 500 million consumers. If things went in a straight line from the legislative point of view, the majority of the countries from the region being able to adopt the regulations adapted to the requirements and to the internal specificity, their implementation would create in many times warnings and discontents from the European Commission. The most powerful obstacle has been to ensure the independence of authority in this field, being a subject to unavoidable pressures: the necessity to create a competitive environment in an economic system in which the state plays an important part. Although, many obstacles have been surpassed, until the moment of the adhesion, the competition chapter proved to be one of the most difficult and gave many emotions to the candidates. Neither Romania has made an exception from this rule.

Competitiveness can be looked at as to a set of capacities and qualities necessary for entering the competition contest. The main objective is to gain major profits or a better position on the market. In this respect, the entrepreneurs will use certain business practices rather for eliminating their rivals on the market, than for facing competition through reduced prices, better quality, innovations, modernization, etc. As "competition kills competition", or competition is self-destructive (Didier, 1989), it means that it will not resist if it is left alone. The battle of scale economies and the losses impact determines a natural selection. Very often, this is not a fair play, but those with competitive advantages are the most powerful on the market. So, **policies in the field of competition and also the legislation in this field are necessary for protecting the national well-being obtained through national and international competition** (UNCTAD, 1999).

In this way, we could say that the existence of a free market economy is a necessary precondition but not sufficient enough for the **national and international competitiveness**. Not the governmental intervention in itself is to blame, but the way it is used. It can be even an essential ingredient towards gaining a comparative advantage, or as a last resort towards international competition on the long term. The measure of the commercial policies has especially a significant impact over the competition on the national and international markets. The majority of the economists agree that the process of the commercial liberalization at an international level is necessary for increasing the level of the income and the global end product on the long term. Nevertheless, they also agree with the fact that, in these circumstances, the total liberalization of the commerce is not desirable. Even if the international commerce contributes to the growth of the internal competition in term of price, quality and it offers incentives for innovation and the development of new products and technological procedures, countries taken individually could not be prepared for it. Therefore, although some commercial barriers inside some sectors can have anticompetitive effects on national markets, they can provide the companies with the necessary time for improving their capacity of competing at the international level. The

protection of some industries can prove to be an important element for the economic growth promoted by the commercial policies (Lachmann, 1999).

It can be said that the developing countries do not have a proper competitive environment in order to reach the economic objectives promoted by the competition. As competition does not appear out of nothing, and because it needs some conditions and a special treatment, the governments have a big responsibility. Especially in the developing countries where the conditions for a functional competition are missing, the policies and legislation in the field of competition are more necessary, not only for facing the danger represented by the restrictive business practices, but mostly for assuring a favourable environment for the development of competition at the national and international level.

The competition does not have the same signification in the economic field for all the economic agents. It can have beneficial effects for some, but also negative effect for others. For the winners the competition will prove beneficial because it will allow them to mobilize all their efforts, resources and capacities for reaching a superior competitive position through obtaining a competitive advantage in comparison to the other competitors. Once, the economic agent reaches a leadership position on a market, he must be conscious that the competition based fight is not over. He must continue to adapt to the competitive environment, to be flexible at new modifications from the environment to which he refers, to search for new competitive strategies, in other words to be in a constant alert, to search for new solutions, to innovate, so that he can maintain and consolidate the gained position. It is obvious that for an economic agent situated in the position of a defeated competitor, a competition will be less beneficial, because it eliminated him as he could not manage to win a place in the reference market. But, paradoxically, it may become beneficial if this economic agent realizes that he has lost due to some mistakes from which he will have to learn. The market will be dominated by the economic agent that will know how to use his resources in the most efficient manner, and will know how to adopt an advantageous competitive strategy. A defeated economic agent will have the chance to copy the strategies of the winners, in this way being able to regain a position inside that market.

These aspects have to be learnt and only a rigorous **knowledge of the rules in the field of competition can ensure the success on the market**. Ignoring the competitors, the lack of competitive strategy and not knowing the law and the regulations in the field can lead not only to the elimination of the companies from the market (even if they are competitive), but mostly to the damage of the business environment, which, as a last resort, will contribute to failure, at the economic level. The companies must realize that the liberalization of the markets, the deregulation and the privatization process in all the economic fields, and the globalization and regionalization phenomenon may be beneficial at the company and society level only if their implications are known and realized enough in order or them to take all the precautions needed.

2. Research methodology

The methodology of the research carried out amongst the companies in Romania followed the necessary specific steps of this kind of research, abiding by the accepted standards in the case of a market research. As defining characteristics of this research the following are given:

I. The goal and the objectives of the research

The research has the goal of analysing the degree of preparation and information of Romanian business environment regarding the anti-competitive practices sanctioned by the competition law and the role played by the Competition Council, an independent institution, autonomous in regulating the mechanisms on the free market by protecting honest competition. Therefore, the objectives of this research can be synthesized as follows:

- Identifying the degree of information of the business environment regarding the actions of the Competition Council (the context and the moment of finding out that the institution existed, the way of informing themselves about the activity of the institution, the frequency in accessing the institution site, analysing the volume and the quality of the information presented on the site, determining that necessary information which are not on the site);
- Determining the business environment degree of knowledge of the practices sanctioned or forbidden in some cases by the Competition Council (anti-competitive agreements and the share of Romanian companies practicing them, abusive practices by the companies being in a dominant position, notifying economic concentration operations, obtaining derogations or exceptions for some practices, notifying state grants, tax payments, fines).

II. The research method

According to the type of information resulting from the research, this is a qualitative research, and according to the place of carrying out the research it is an on sight investigation. According to the functional goal of this research, it is an exploratory investigation, predominantly descriptive, which is aimed at describing and evaluating some coordinates, but also an explanatory investigation, because it tries to analyse the causal relationships existing between certain existent variables.

III. The sample of the survey

The studied population consists of the total of all enterprises in Romania. The Romanian enterprise represents the unit for observation, and the juridical department represents the unit for survey. In the case of smaller enterprises, the general manager was interviewed. In some cases, the questionnaire was filled in by an expert from the marketing department (commercial or sales, depending on the case). In this case, 300 companies in Bucharest were phoned or e-mailed and 100 gave an affirmative reply, thus having an answering rate of 33.33%.

IV. The method for collecting information

In order to better answer the objectives of the research I chose to get my information by interviewing, using a questionnaire with pre-established questions, which was distributed by the interviewing operators. The information was gathered during February-May 2006 and was perfected, analysed and interpreted during the period August-September 2006. In accordance to the method of gathering information, the instrument for collecting information was established, this being a questionnaire made up of 30 questions, of which 3 were questions for identifying and the rest of them questions of content.

3. Analysing and interpreting research results

Graphs and tables with one variable were used for a clearer and more suggestive presentation of the results, inside which the percentages obtained were displayed, thus offering an overview on the presented data. Only a part of the findings are presented below.

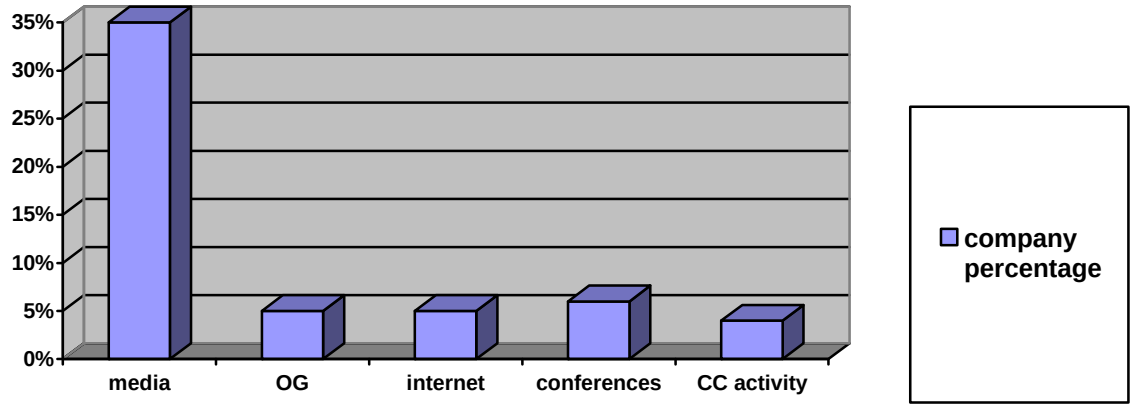
3.1. The degree of knowledge and information regarding the existence and activity of the Competition Council

As a result of the research, 3% of the interviewed economic agents hadn't heard of the existence of the Competition Council before the moment they received the questionnaire. 14% of the respondents heard about the Competition Council at the moment it was set up or when the Competition Law entered into force (1996-1997). 3% considered that this happened during the period 1996-1997, and 2% during 1999-2000. 9% of the interviewed companies heard about the Competition Council 4 or 5 years ago, and 11% in the last 2-3 years. 3% heard about it during last year, and 1% only a few months ago.

The great number of no-answers to this questions (54%) and the fact that most of those who answered couldn't identify exactly the moment when they heard of the existence of the Council for the first time, proves two important aspects: the importance given to this issue (the Competition Law and the Competition Council are two issues that can easily be ignored by the business environment), and the companies' interaction with the Council's members (at the moment of initiating this research I considered the premise that most of the Romanian companies had never heard about the Competition Council because they had no reasons why or for what they should have, or even if they had heard of it, it had been treated as any other information in the media)

Moreover, the business environment in Romania is not educated enough to give the competition issue the gravity it gives the marketing policy for example, although the two are interdependent and shouldn't exist one without the other. But, for sure the moment 2007 mean more to the companies than a larger commodity market and the threat of competition from the European companies. This is the signal that without a clear authentic competition strategy, without knowing the norms in the competition field, without admitting the role played by the competition authority, the resulting benefits on a certain market may be smaller than expected and for a shorter period of time.

Figure 1. Methods used by companies to get informed about the activity of the Competition Council



Most of the companies (35%) heard about the Council's existence and activity in the media (television, radio, press, expert magazines), 3% from the Official Gazette (OG), 5% through the internet, 6% during conferences and seminars, and 4% in the context of promoting activities developed by the Competition Council (CC) (when giving fines, and bringing into force decisions of economic concentration). A share of the respondents (5%) heard about the existence of the Council by accident or because of some circumstances that determined them to obtain information about the behaviour of a competitor on the market. Only 5 % of the interviewed companies heard about the Competition Council in the context of a control run by the competition inspectors or under circumstances determined by submitting a notification or when the Competition Council solicited information from the company about the market it operates on.

A percentage of 77% of the respondents has never been in contact or has never been contacted by members, expert personnel, or inspectors from the Council. For the rest of 23% the reasons for being in contact with the members of the Council can be synthesized as follows:

1. on the occasion of obtaining an investor certificate
2. on the occasion of an auction to which the company attended;
3. to obtain information needed by the company or information about a competitor on the market;
4. at a hearing, as a result of a complaint filed on the basis of art.5(1) of the Competition Law;
5. on the occasion of introducing some legislative modifications on the market on which the company operates;
6. during conferences, seminars etc;
7. at a control run by the competition inspectors.

None of the economic agents interviewed mentioned among the sources of information the Annual Report of the institution or the expert magazine edited by the institution (which appear periodically, with some delay)

Moreover, an important aspect for abiding the norms of the competition market, which also constitutes an important source of information, is filing a complaint with the Competition Council. None of the economic agents enlisted in the survey mentioned among the ways in which they got

in contact with the Competition Council that of filing of the complaint, although a large share of them mentioned they had asked for information regarding the activity of a competitor on the market.

Complaints and notifications are an essential source of information for detecting infringement of competition norms. Natural and legal persons can file this petition, but it must have a legitimate interest in order to file a complaint with the Competition Council. Thus, the economic agent who files the complaint or the petition must offer complete information about his identification, as well as the group to which he belongs and the field in which he operates. Further more, it must identify and offer clear information about the economic agent/s whose behaviour is the object of the complaint, including information about the group to which the latter belongs and about his activity, as well as the claimant's position towards the agents and agent associations blamed by him. (e.g.: client, competitor etc.)

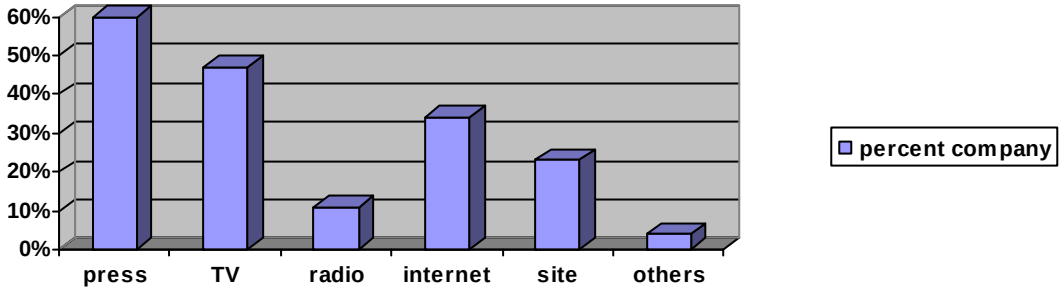
An important aspect of the complaint is presenting the facts from which the supposed infringement of art. 5 or 6 of the law results, especially indicating the nature of the products (goods or services) damaged and offering all the necessary details available on the misunderstandings or practices of the economic agents or the agent associations which make the object of the complaint (e.g.: the market estimated quota held by the blamed economic agents). These facts must also be accompanied by proving documents and information, together with proofs directly related to the facts enlisted in the complaint (e.g. the text of the agreement, the minutes of the meetings or negotiations, the terms of the transactions, the business documents, newsletters, mail, transcripts of phone conversations, numbers and addresses of persons willing to testify and especially those of the persons affected by the so called infringement of the provisions of the law, statistics or any other data referring to the claimed facts e.g.: referring to the evolution of the price, to the quantities sold etc)

All these have to be accompanied by the presentation of the claimer's point of view on the geographic market on which the law was broken, in which way the competition was affected, and which is the claimer's expectation of a result after the Competition Council set the legal procedures in motion. When the information provided by the claimer does not constitute enough ground to justify the initiation of an investigation, the Competition Council sends out a decision of rejection; this decision will be followed by a hearing of the claimer's arguments. If the complaint is justified and grounded and of his own free will, by self noticing, the Competition Council will order an investigation with a view to clarify the so called infringement of art. 5 or 6 of the Competition Law.

3.2. Ways for the business environment to inform itself about the Competition Council's activity

As it can easily be seen, the main source to get informed about the activity of the Competition Council in Romania is the press (60%), followed by television (47%), internet (34%), the institution's site (23%) and radio (11%). Also mentioned in low percentages among other sources of information is: the Official Gazette, the legislation, having direct contact with the Council's members, official statements received by fax.

Figure 2. **Ways for the business environment to inform itself about the Competition Council's activity**



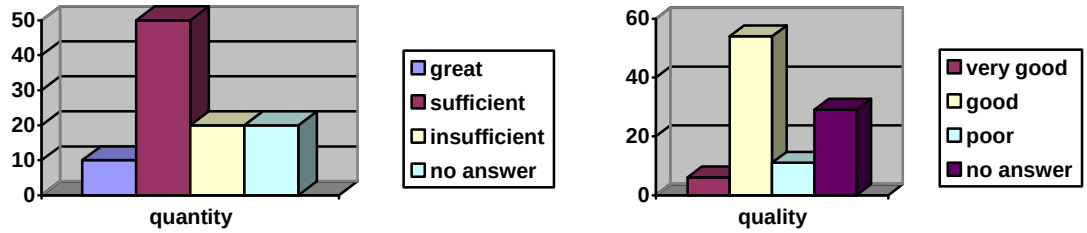
The fact that the media is the main method to get informed about the business environment is not the least bit surprising. But in an area as complex and exact as competition, these sources are necessary but insufficient in order to offer analyses and solutions. It is not surprising that among the sources of information neither the magazine „Profil Concurenţa" ("Competition Profile"), nor the annual report of the Council were mentioned, which should be the main source for the business community in the field to get informed. This can be explained by the lack of advertising these two methods, be that because they turned out not to be real sources, efficient enough to offer solid solutions to the real market scenarios, and in the end to capture the interest and attention of the business environment. It can be said that for now in Romania, a competition between expert magazines in the field of competition and reliable advertising techniques on the market is essential.

3.3. Frequency in visiting the Competition Council's site

Surprisingly, I noticed that 30% of the interviewed companies had never visited the site of the Competition Council, while 15% had only visited the site once. 30% of the respondents had visited the site once a few months, 18% once a month and only 17% on **a weekly basis**. None of the companies enlisted in the survey had ever visited the site of the Competition Council on **a daily basis**.

As far as the quantity of the information on the site is concerned, 50% of the respondents consider that it is enough, 20% believe it to be insufficient and only 10% that it is a great deal of it.

Figure 3. Respondents' opinion regarding the quantity and the quality of information on the site



Only 6% of the questioned companies have a very good opinion about the quality of the information, 54% consider it is good, and 11% that it is poor.

According to respondents, the most important information missing on the site and which would be necessary for Romanian companies' activity are: information related to the Council's activity, the legislation and its interpretation, analysis procedures, how the quantum for sanctions is established, new regulations in the field, exact examples of investigated cases, the outcome of the control activity and possibilities for appeal and recourse to the Council's decision, market studies in different fields, changes that will affect the competition environment after EU accession, how a state grant can be obtained, and information on auctions for public funding.

Competition authority's ***transparency*** in Romania can say a lot about its credibility and image, which in this domain are extremely important. The Competition Council- as the only authority with decision taking role in the field- started publishing decisions more frequently. Until now, only some decisions have been published, and those randomly. As a result, some of the published decisions were insignificant, unimportant from a jurisprudence point of view. Moreover, the Annual Report does not publish the entire list of decisions taken within the Council, so as a result from the lack of some information within the institution, it is less likely for an outsider to hear about decisions that may affect his behaviour, or its position on the market.

As far as the ***quality*** of the information on the site is concerned, it can be said that this has significantly improved as a result of the existing regulation and of the legislation modifications in the field. It is true that there are still gaps regarding how decisions are justified, what arguments are brought forward and what the Council's position is. Generally, decisions are rather conceptual, not very detailed and analysed. A description of the arguments, a more accurate description of the way in which decision are taken, would be a must in competition advertising policy, and would offer companies the insurance ***of having understood correctly*** some of the authority's point of view in the field. Even in the case of some on going investigations there would still exist several parties interested in finding out details about them, a way by which everyone (involved parties, the entire business environment, and other affected parties on the same market or on interdependent markets) would have only to win.

3. 4. Analysis of the level of knowledge and use of the methods forbidden by the Competition Law.

a. the level of knowledge of the agreements and methods of unfair competition:

In order to avoid being suspected or sanctioned for breaking art.5 under the competition law, regarding the methods of anti competitive competition, companies should know that the following agreements are meant to restrict, denature or eliminate competition on the market, and therefore are forbidden:

- concerted assignation, directly or indirectly, of the price of sale and purchase, tariffs, discounts, additions, as well as of any other commercial conditions;

- restriction or control of production, distribution, technological development or investments;
- the division of market or of the supplied sources, on territorial basis, of the volume of sales and acquisitions or according to other criteria;
- regarding the commercial partners, applying unequal conditions for equivalent performances, leading to great disadvantages for some of them; conditioning in closing contracts by which partners agree to accept some provisions regarding additional performances which have no connection with the object of the contract, neither by their nature or according to commercial regulations;
- participating with false offers to auctions or to any other contest based on offers;
- eliminating other competitors on the market, restricting or preventing accession on the market and the freedom to operate within a competitive environment, as well as agreements not to buy or sell to certain economic agents without a reasonable justification.

However, in order to avoid such cases, companies must know these practices forbidden by law and the fact that their premeditated/unpremeditated use may lead to sanctions and penalties which may amount to 10% of their turnover.

Nevertheless, the research performed shows that most of the companies included in the sample are not aware of the anti competitive practices which have to be avoided, and only 6% have ticked all the answers. Thus, 60% of the respondents indicated as anticompetitive settlements the *establishing of prices on a product,* 54% *the division of the market or of the customers*, 28% the division of the *production-selling rates,* 66% *eliminating competitors in public auctions*, 54% *eliminating a competitor, a supplier or a buyer* and 29% *exchanging information between competitors.*

The low level of information concerning the regulations of the competitive environment is partly reflected in the fact that respondents have indicated that they had taken part in such agreements (83% mentioned that they had not taken part in any agreements, 8% had taken part in any agreement, and 40% admitted to having taken part in several such agreements). Among the positive effects of such a behaviour, the persons whose answers were affirmative mentioned the following: *increase in sales, better relationship with some suppliers; in other cases, there were positive effects on a short term, because on a long term, losses were registered (for example, setting the price for a service lead to an increase of the number of customers on a short term, but the difference in quality between products was not sensed under this unique price).*

The fact that a large number of the companies included in the research gave a negative answer is fully justified. On one hand, if they had been aware of the entire list of unfair agreements, they could have indicated more accurately the practice of some of them; on the other hand, we cannot ignore the fact that it is rather difficult to obtain recognition for practicing a forbidden method, even if this is necessary for statistics and the answer would be confidential. And in the end, not even the Competition Council (which has the necessary conditions,

infrastructure and instruments) succeeds in tracking down more than 5 anticompetitive agreements per year.

b. The degree of knowledge of anticompetitive practices in a dominant position-abuse

The dominant position represents the situation in which an economic agent is able to behave independently towards its suppliers, customers and competitors on the market. In case of a company that has a dominant position, the commercial practice indictment refers to the abusive behaviour, by two categories of practices:

- Of exclusion (practicing ruin prices by establishing prices lower than their own costs or with a very small profit, price discrimination);
- *Exploitation* (imposing directly or indirectly the selling and purchasing prices, tariffs or other inequitable contractual provisions and the refusal to deal with certain suppliers or customers, practicing excessive or unreasonable prices, applying unequal conditions to equivalent performances, when concerning commercial partners which lead, as a consequence, to disadvantages for some of them, limiting production, distribution or technological development disadvantaging the users and the consumers, exploiting customer or supplier's addiction who do not have alternative solutions in equivalent conditions, breaking the contractual relationship because the partner refuses to accept some unfounded commercial conditions, conditioning for closing contracts by which the partners agree to accept some provisions regarding additional performances which have no connection with the object of the contract, neither by their nature or the commercial regulations.

Regarding anticompetitive practices considered as abuse of dominant position, only 5% of the respondents indicated all the answers; 18% of the companies, which where included in the research, indicated as an abuse of dominant position the refusal to do business with a customer, 40% imposing excessive prices, 65% practicing prices lower than the costs in order to eliminate competitors, 46% applying to commercial partners unequal conditions for equivalent performances, 41% practicing the discrimination of prices, 44% conditioning the selling of a product by accepting unjustified commercial conditions, 30% exclusive distribution contracts. 2% of the respondents indicated that none of the mentioned methods represents abuse of dominant position.

The answers reflect a low level of knowledge of the anticompetitive practices, in general, and of those considered abuse of dominant position. The level of usage of the above mentioned methods by companies included in the research is the following: 78% have never used such methods (but because they were not aware of these methods, they couldn't have mentioned them exactly), 4% have used them once, 10% a few times and 2% several times.

In the case of companies giving an affirmative answer, the effects were the following: access on a new market (by practicing prices lower than the costs), increase of profit (by using discriminating prices), elimination of non-serious customers and improving the image of the company (by refusing to do business with the respective customers).

According to the investigation, made ex officio or due to a notification, regarding breaking the provisions of the Competition Law concerning anticompetitive practices, the Council may take the decision by which it demands the cessation of the certified anticompetitive practices, to express only recommendations, to impose to the parties special conditions and other obligations, to apply fines to the economic agents. Generally, the fines may amount as much as 10% of the turnover of the previous year.

Not even these answers should be surprising because the issue of the dominant position abuse is very complex and extremely sensitive. This is also reflected by the low number of cases of abuse sanctioned by the Competition Council: 2 in 1999, none in 2000 and 2002 and in 2004 there were 10 decisions out to which the number of sanctions in not known.

4. Conclusions

The current research contains some limitations due to financial and material restrictions which triggered the focusing on a qualitative research. Concerning the survey unit, there were interviewed persons that did not have the quality, or the necessary knowledge to answer correctly the questions in the questionnaire, although the questionnaire was clear and correctly defined. Moreover, as a result of the analysis and interpretation of the results obtained, its descriptive character has been obvious, which in fact has been initially shown. I believe that the research concerning the Romanian competitive environment is conclusive enough to be able to enlist some relevant conclusions referring to the perception and degree of knowledge of some elementary aspects concerning the competition. We must not lose sight of the fact that the main challenge following 2007 will be the ability to face competition pressure on the EU market. Under the obligation of fulfilling some requirements, Romania has received the status of functional market economy. A possible fiasco in fulfilling this objective could transform the advantages of accession into the illusion of a shattered dream. But the main aspect is acknowledging the fact that without a fair competition, and without a continuous way of getting informed, there is no functional market.

Observing the rules of a free open and loyal competition in the European environment involves knowing the regulation in the field, the existence of a civic conscience, and even more so, the existence of a democratic spirit and of economic freedom. Lately there has been mentioning in the expert literature of the existence of a ***"competition discipline and of a culture in the competition field"*** as an obligatory and necessary requirement which might allow a deeper accession to the EU.

If the competition discipline is learned faster by the authorities, and by the economic agents, it has to be the same as the one in the UE. Competition culture is obtained in time through a series of actions and measures intended to lead to the fulfilling of those requirements. Here, the Competition Council must intervene in each country, in order to develop a significant activity for this.

An interference between the culture of the competition field and the organizational culture or the culture in the marketing field is not at all exaggerated, because all of them belong to the same actual trend and have as objective the obtaining of some competitive advantages on the European market, advantages that will allow a better positioning

within the market frame and will be a guarantee for accessing properly the European economic field. The competition policy must be a constant component for the political mix practiced by a country being in transition, not just one being in conjucture.

The existence of a consistent and coherent policy for protecting competition is useful for controlling the privatization process and for offering credibility for the interventions of the competition authorities. I believe that in this chapter the role of the consulting companies is fundamental. First of all, because the authority in the competitive domain has limits and restraint of its own, which are determined by the absence of the material and human resources, and on the other hand because its role is more punitive than precautionary. So, its constraining force can be diminished if there is any risk of transforming itself from a control factor to that of an adviser. Its role has to remain that of tracking down and sanctioning anticompetitive practices on the market.

Therefore, in order to be able to face competitive challenges on the unique market, companies have to make use of the consulting companies' services on competition issues, which will take for all the business decisions to be perfectly legal and compatible with the provisions of the competition law. Consulting an activity on competition issues is just the beginning, but which will probably increase in the next two year following the accession, when the business environment will acknowledge the necessity of such a service, in lack of an expert department on competition issues.

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