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ANNUAL REPORT ON COMPETITION POLICY DEVELOPMENTS IN ROMANIA

-- 2013 --

18-19 June 2014

This report is submitted by Romania to the Competition Committee FOR DISCUSSION at its forthcoming meeting to be held on 18-19 June 2014.

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EXECUTIVE SUMMARY

1. This report addresses the activities undertaken by the Romanian RCC (hereinafter referred to as “RCC”) and the competition law and policy developments in Romania from January 1, 2013 to December 31, 2013. Where appropriate, later developments have been included and reported on.
2. In 2013, the activity focused particularly on investigating the most severe forms of competition law infringement, namely cartels, including within public tendering procedures. Thus, approximately 60% of the cases triggered in 2013 have targeted such anti-competitive practices and two important cases, the cartel case on the market for waste management of electrical and electronic equipment and the bid rigging on the armament market were concluded with significant fines.
3. The market monitoring activity was intensified, which has resulted in the initiation of a significant number of sector inquiries, targeting areas important to consumers, such as pharmaceuticals, electronic communications, healthcare or vehicle insurances, and the completion of the sector inquiries on card payment services, construction of roads and highways, distribution of movies in cinemas and beer market.
4. The conclusions of the sector inquiry on the market for card payment services have been the basis of discussion with market stakeholders – the Romanian Government – the Ministry of Public Finances, the National Bank of Romania, commercial banks and retailers - in order to reduce the fees for card payments. Limiting the fees will generate in some extent benefits for merchants, some of which will be passed on to consumers through lower sale prices.
5. Another very important objective that RCC accomplished in 2013 is to increase the role of the economic analysis in both law infringement investigations as well as in monitoring of markets. Two of the most important examples are: the analysis carried out for the Auchan/Real merger case completed by undertaking commitments and the ex-post assessment of the effects of the takeover of Lidl over Plus. For the first time, in 2013, RCC has elaborated and applied an aggregate index of competitive pressure for some economic sectors. The results were published in the “Competition Developments in Key Sectors Report” and were subject to public debate.
6. Regarding case reviews in courts, the percentage of fines retained as definitive, as well as those retained as irrevocable, increased compared to the previous year, with favourable results in important cases such as gasoline and telecom.
7. Within the context of international affairs, the end of 2013 marked the start of the OECD peer review examination process of competition law and policy in Romania. The resulting report following the peer-review was presented this year in February at the OECD Global Competition Forum, and the conclusions and recommendations are to be included in the implementation of the institution’s new reform project.
8. In terms of administrative capacity improvement, RCC has received specific advice from the World Bank within the EU-funded project "Improving the effectiveness of competition policy enforcement in correlation with sector policies”.
9. Therefore, in the near future, RCC intends to focus more on the strategic reorientation of its activity which implies case analysis based on economic impact and increased involvement in cases that have a significant impact on the economy. As mentioned before, the institution will embark on a new legislative and administrative reform, which will take into consideration the recommendations of OECD

and World Bank and will bring about a modernised legislative framework and new business architecture of the competition authority.

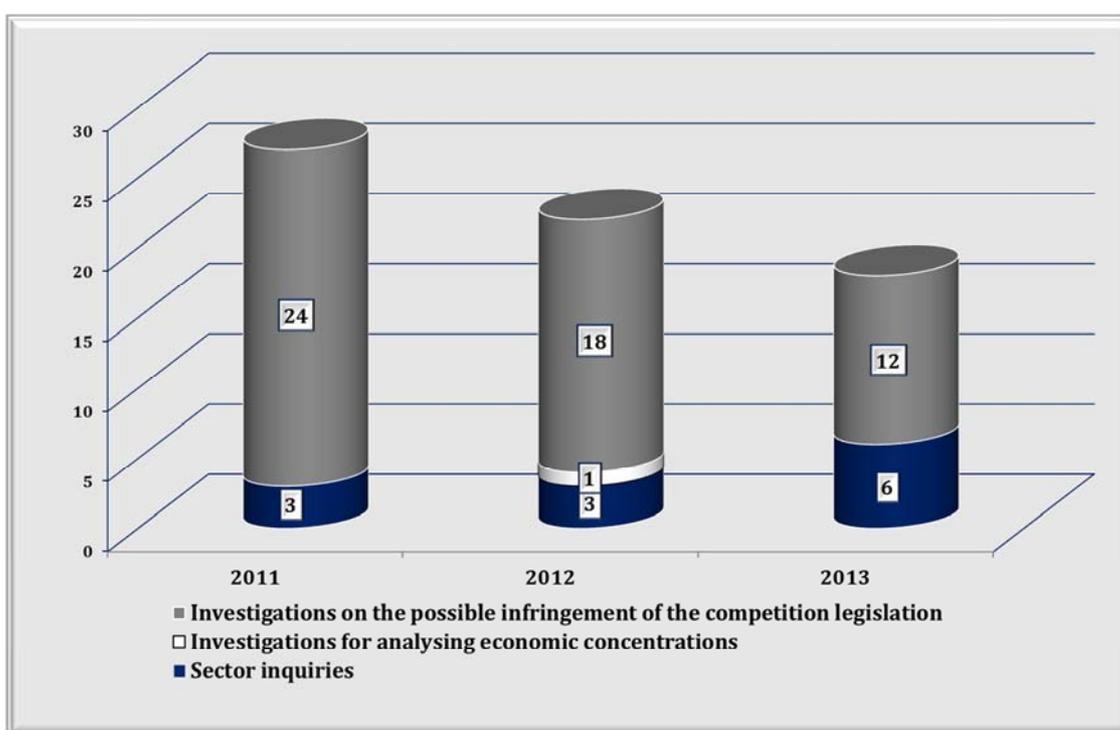
10. 2014 will be an important year for RCC, the major challenges being generated primarily by the liberalisation of the energy and natural gas markets, as well as by supporting businesses in the current economic and financial context.

1. Enforcement of competition laws and policies

1.1 New investigations

11. In 2013, the Competition Council initiated 18 investigations, out of which 12 are concerning possible infringements of the Competition Law, and 6 are envisaging certain economic sectors (sector inquiries).

New investigations 2011-2013 (no.)

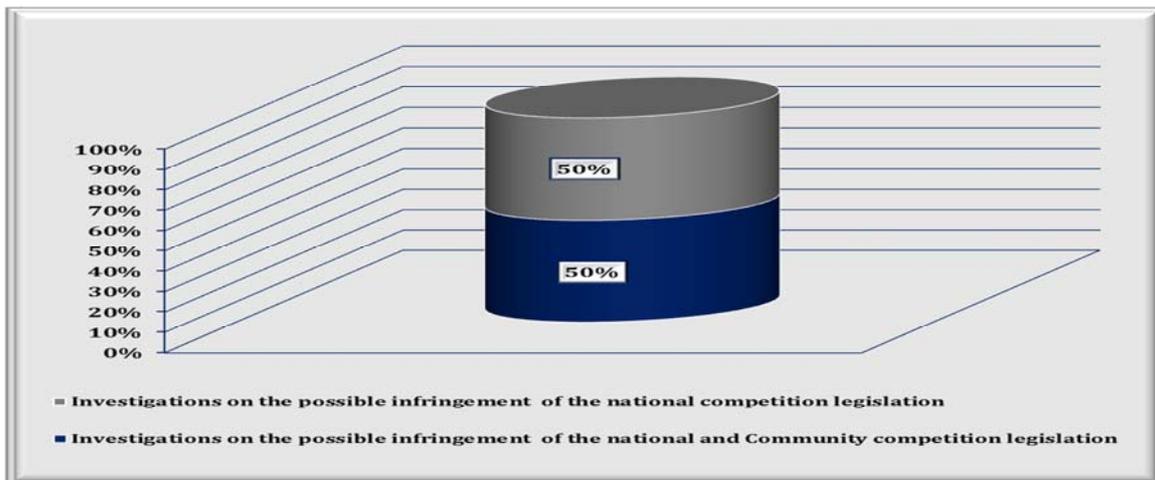


12. The number of the investigations initiated in 2013 has diminished by 22% compared to 2012 and by 50% compared to 2011. This development indicates that the competition authority stressed its efforts on completing on-going cases.

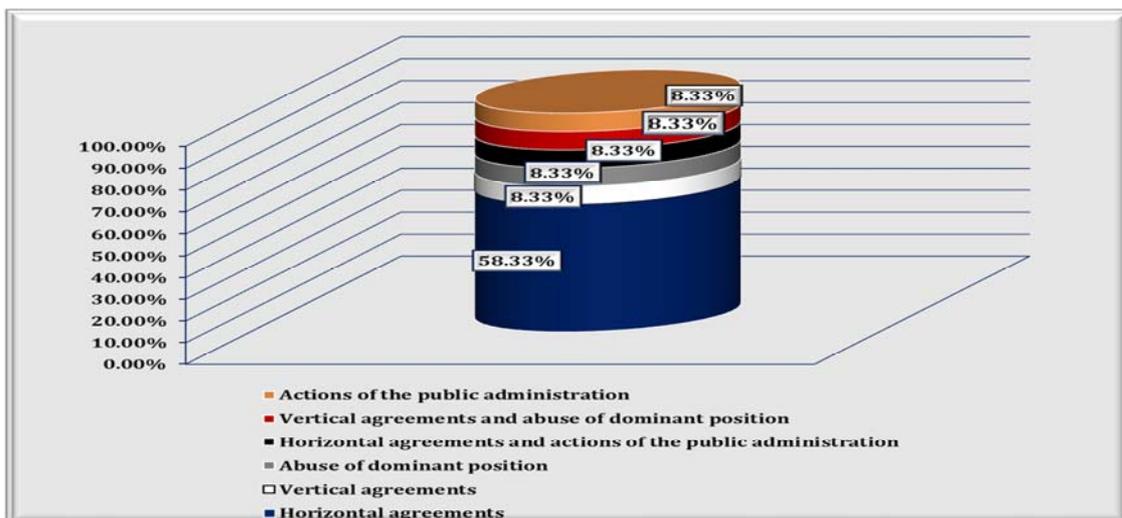
13. Out of the 12 investigations concerning possible competition law infringements initiated in 2013, around 67 % have been opened ex-officio following the analysis of the competition authority. Most investigations envisage the construction of roads, the dairy sector and the cinema field (16% of the total number of investigations for each sector). Considering the type of the investigated practiced, most investigations are focused on horizontal agreements (58%).

14. The structure of these investigations, based on the incident competition legislation and on the investigated practice, is presented in the following graphs:

The structure of the investigations on the possible infringement of the competition law initiated in 2013, depending on the incident legislation (%)



The structure of the investigations on the possible infringement of the competition law initiated in 2013, depending on the investigated practice (%)



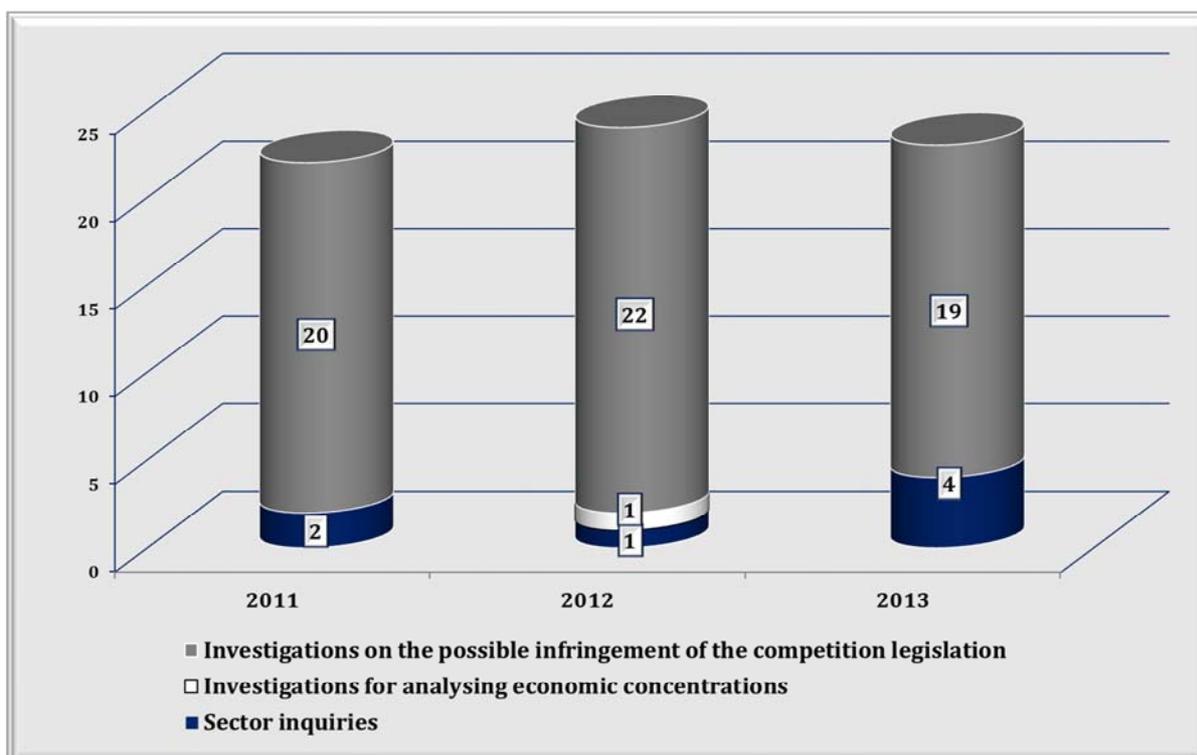
15. The 6 sector inquiries initiated in 2013 regard the following markets:

- services provided by insolvency practitioners;
- pharmaceutical products;
- electronic communications and access to the specific infrastructure;
- wood market;
- medical assistance;
- auto insurances.

1.2 Concluded investigations

16. A total of 23 investigations have been concluded in 2013, with one investigation less than in 2012, and with one more compared to 2011. Out of the 23 investigations, 19 have envisaged possible infringements of the competition legislation and four were sector inquiries.

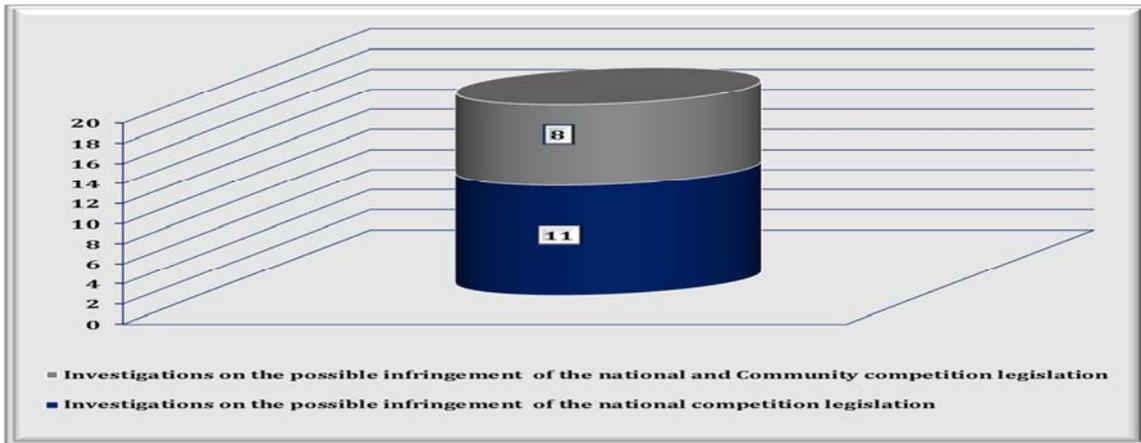
Concluded investigations (no.), 2011-2013



17. The number of finalised investigations envisaging possible infringements of the competition legislation decreased by 16% compared to 2012, and by 5% compared to 2011. The number of the sector inquiries finalised in 2013 increased by four times compared to 2012 and doubled if compared to 2011. Taking into account the total number of the investigations (on-going as well as initiated in 2013), the Romanian competition authority has finalised 24% of the cases under its analysis.

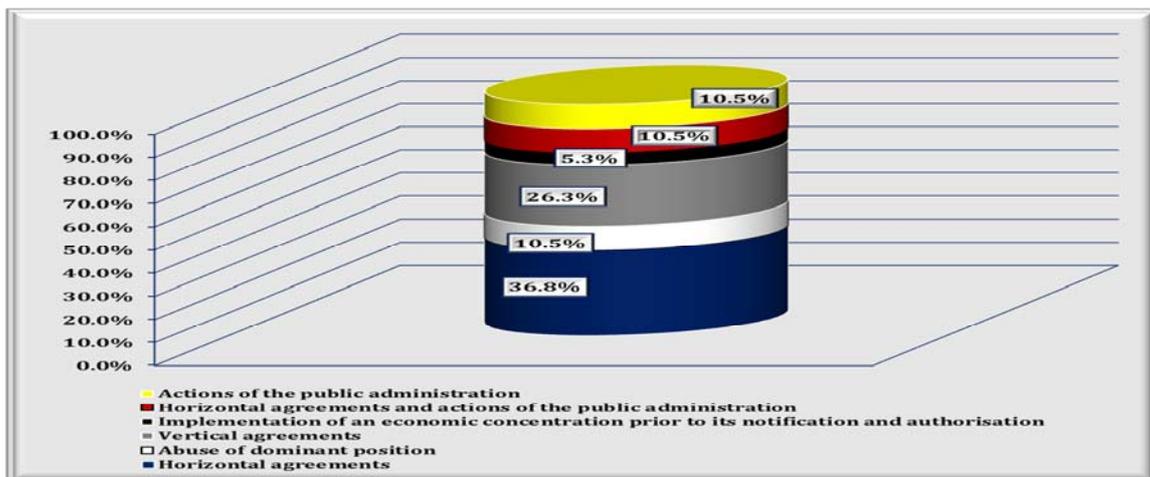
18. The situation of the investigations on the possible infringement of the competition law completed in 2013, depending on the incident competition legislation and on the investigated practice, is presented below:

The structure of the investigations on the possible infringement of the competition rules completed in 2013, depending on the incident competition legislation (no.)



19. 42% of the completed investigations concerning possible infringements of the competition rules have targeted both the national and the Community legislation.

The structure of the investigations on the possible infringement of the competition rules completed in 2013, depending on the investigated practice (%)



20. Out of the total investigations on the possible infringement of the competition rules, 7 investigations have been completed by imposing fines: 3 investigations have envisaged vertical anticompetitive agreements, two investigations envisaged horizontal anticompetitive agreements and actions of the public administration, one investigation envisaged horizontal anticompetitive agreements and one investigation analysed the implementation of an economic concentration prior to a decision of the Competition Council.

21. An investigation was finalised by establishing the existence of anticompetitive actions of the public administration (in such cases, no fines can be imposed), and the remaining 11 investigations (58%) were closed because the evidences identified were insufficient for proving an infringement of the law.

22. In 2013, the average period for finalising the cases on the possible infringement of the competition rules has increased by half a year compared to 2012, and by almost one month compared to 2011.

23. Based on the nature of the anticompetitive practice, the average duration of the investigations completed in 2013 has varied as follows: 4.9 years - horizontal agreements and actions of the public administration, 4.8 years – abuse of dominant position, 3.1 years - vertical agreements, 2.4 years - horizontal agreements, 1.7 years - actions of the public administration. The investigation on the notification failure/implementation of an economic concentration prior to its notification lasted 1.7 years.

24. Sector inquiries were finalised on the following markets: distribution of films to cinemas, construction of roads and highways, bank card payment services and beer market. The average duration of the sector inquiries finalised in 2013 has decreased by 1.4 years compared to 2012 and has increased by 0.8 years compared to 2011.

1.3 Investigations in progress at the end of 2013

25. 63 investigations on the possible infringement of competition law, out of which 26 investigations older than 3 years, and 11 sector inquiries were in progress at the end of 2013. During the last three years, there was a constant decrease in the number of the total investigations still in progress at the end of each year, while the number of the sector inquiries has followed an opposite trend.

1.4 Dawn raids

26. During 2013, 80 headquarters/working points owned by 80 undertakings were inspected within 12 investigations.

1.5 Fines

27. The value of the fines applied by RCC in 2013 has been of RON 86,778,562 (EUR 19,637,602). A total number of 35 undertakings have been sanctioned for anticompetitive practices; one undertaking was fined for failing to supply information and one natural person was fined for implementing an economic concentration prior to its notification and authorisation by RCC. Compared to 2012, the value of the fines has increased by 187%. Depending of the type of law infringement, 79.5 % of the total sanctions were applied for horizontal agreements, 19.9% for vertical agreements, 0.2% for implementing an economic concentration prior to its notification and authorisation by RCC, and 0.004% represented comminatory fines applied for failure to supply information within a sector inquiry.

1.6 Economic concentrations

28. During 2013, following their notification, 47 economic concentrations were approved in Phase I, with authorisation taxes amounting to RON 2,157,576 lei (EUR 488,250). The average duration of the economic concentration cases concluded in 2013 has been of around 2.4 months. In the last three years, their average duration registered a slight decreasing trend. It deserves to be mentioned also that in 2013, a third of the merger cases have been analysed by **simplified procedure**.

1.7 Decisions

29. The number of the decisions issued by the Competition Council in 2013 was of 57. The majority were for authorising economic concentrations (68%) and for rejecting certain complaints on anticompetitive practices (14%).

2. Description of significant cases

2.1. *Fines imposed for anti-competitive conduct in buy-back campaigns in market for sale of electric and electronic equipment*

30. RCC adopted a decision finding an infringement of Article 101 TFEU and Article 5 (1) of the national Competition Law on the market for the sale of electric and electronic equipment (mainly household appliances) and imposing fines totalling approximately EUR 10,800,000.

31. Arctic, BSH Electrocasnice, Candy Hoover Romania, Electrolux Romania, Gorenje Romania, Indesit, Philips Romania and Whirlpool Romania, members of the association ROREC, were found to have taken part into a concerted practice to coordinate essential elements of their commercial policy, such as fixing the level of discounts which are given to customers on acquisition of a new equipment while bringing in old equipment and the control of product marketing in the framework of their buy-back campaigns. According to the investigation, the level of discount for the period 2008-2009 was set at 15% for large household appliances and 20% for small ones. In addition, income coming from the collection of 'green stamps' was allocated to the parties in proportion to their market share in order to finance the discounts applied in buy-back campaigns.

32. The ROREC association is a non-profit collective organization responsible for the management of waste for electrical and electronic equipment (WEEE). In accordance with the legislation in the field, ROREC was set up to take over from producers the responsibilities of collection, reuse, recycling and recovery of WEEE.

33. RCC found that the practices described above affect competition by their very nature and that they introduce a high degree of certainty which limits the ability of each party to compete independently.

2.2. *Bid rigging: The weapons market*

34. By Decision no.44/2013, RCC found the infringement of the national and Community competition law and decided to sanction four undertakings for the concerted practice of participating in bid rigging within the procurement procedures for the acquisition of the following products: "infantry weapons" and "optical apparatus". The total amount of fines applied by RCC was of approximately EUR 2.8 million.

35. The investigation was initiated in 2009 as a result of the information provided by the Department of Prevention and Investigation of Corruption and Fraud belonging to the National Defence Ministry. This investigation involved the potential infringement of the national and Community competition law by the Romanian undertaking S.C. Transcarpat Sportours International S.R.L., as well as by J.P. Sauer & Sohn GmbH from Germany, San Swiss Arms AG and Brugger & Thomet AG from Switzerland.

36. The above mentioned undertakings had participated in bid rigging of tenders organized during 2005, 2006 and 2007 by the Department for Armaments of a military unit within the National Defence Ministry.

37. The evidence found presented the way/the circumstances in which the bid of three participants were drawn up by a fourth entity, S.C. Transcarpat Sportours International SRL. The latter company substituted to the other parties who had accepted, even tacitly or by negligence, for their offers (including the confidential/sensitive information concerning the products and prices tendered) to be edited by S.C. Transcarpat Sportours International S.R.L.

2.3. Vertical anticompetitive agreements: the gambling market

38. By Decision no.53/2013, RCC found an infringement of the national and Community competition law by four enterprises, applying total fines of approximately EUR 3.76 million (RON 16.85 million) as follows: CN Loteria Română SA – RON 9.018.141 (representing 0.9% of turnover in the previous fiscal year), Intralot SA Integrated Lottery Systems and Services – lei 5.541.874, Intracom SA Holdings – RON 1.779.528 and Lotrom SA – RON 512.469 (each penalty representing 6.3% of turnover in the previous fiscal year).

39. The competition authority found that the four undertakings had made an agreement on implementing the video lottery program in Romania by establishing a non-compete obligation clause within the Supplier Credit Contract. The non-compete provision stated that, during the contract period, 2003-2013, the Romanian Lottery was not allowed to carry out another video-lottery program or a similar one in cooperation with other undertakings.

40. Although several other undertakings presented certain offers concerning the implementation of other video-lottery programs, the non-compete clause foreseen in the contract that had been concluded by the four entities led to the restriction of competition both on the exploitation market of electronic machineries in Romania and on the related production and trade equipment markets.

41. When available, the decisions of the above-mentioned cases will be found at: http://www.competition.ro/official_documents/competition/decisions

3. Judicial review of RCC decisions in 2013

42. The percentage of irrevocable decisions, favourable to RCC, as well as the final ones have reached the level of 93%. The fines maintained irrevocably represented 52%, while those maintained definitely represented 81% of the total fines imposed.

43. Some examples of the most important cases instrumented in court during 2013, where the courts took definitive/irrevocable decisions are the following: cartel concerning the market withdrawal of Eco Premium fuel, finalized by RCC in 2011 (for the contestations submitted by ENI, MOL, OMV-Petrom, Lukoil, OMV Petrom Marketing, Rompetrol); abuse of market dominant position of Orange and Vodafone, finalized by the Romanian competition authority in 2011; the cartel on the mandatory private pensions market - 2nd Pillar, completed in 2010 (for the contestations submitted by Allianz and Generalli); the vertical anticompetitive agreement on the insulin market, completed in 2008 (for the contestation submitted by Mediplus); the vertical agreement on pharmaceutical distributors market, completed in 2011 (for the contestation submitted by Baxter), as well as cases where legal privilege was invoked (Alpiq Romindustrie, Alpiq Romenergie, Energy Holding).

3.1 The Insulin Case – court review of the Mediplus file

44. By Decision no.15/2008, RCC found the infringement of the competition law by the producer Eli Lilly Export SA as well as by its distributors, SC A&A Medical SRL, SC Relad Pharma SRL and SC Mediplus Exim SRL.

45. The competition authority found out that the manufacturer Eli Lilly and its distributors A&A, Relad and Mediplus have concluded an anticompetitive agreement. The anticompetitive agreement had as objective the sharing of product portfolio for diabetes belonging to Eli Lilly, in the context of the national tender organized by the Ministry of Public Health and the National Health Insurance House in 2003 for the acquisition of human insulin necessary for Diabetes National Programme. The collusion intervened as well in the case of the electronic tenders organized by hospitals for acquiring human insulin outside the

Diabetes National Program (during 2003-2005). The agreement concerning Eli Lilly's diabetes portfolio had as a result the elimination of the competition between the three mentioned distributors for the respective products.

46. In order to prove the existence of the collusive agreement, the competition authority started from an internal document of Eli Lilly, entitled „Overview”, which included a description of the situation on the insulin market before the national tender, dating from May 2003. The act also included a presentation of the specific terms of the Diabetes National Programme, scenarios concerning the participation of Eli Lilly's distributors in the national auction and their favourite scenarios. The probative value of the document „Overview”, which, together with other evidence, constituted the basis for the competition authority's decision, was rejected by the parties involved in the agreement, including Mediplus.

47. In terms of the cases that dealt with solving actions for annulment formulated by the manufacturer Eli Lilly and its distributors A&A and Relad, the Bucharest Court of Appeal as well as the High Court of Cassation and Justice maintained the competition authority's decision considering that sufficient evidence was found on the said agreement. Moreover, the two instances noticed that the contravention had been adequately sanctioned.

48. In the case of Mediplus however, the Bucharest Court of Appeal found essentially that the facts retained by the competition authority were not supported by evidence and therefore annulled RCC's Decision no.15/2008 concerning the respective distributor.

49. The conclusion of the first court was appreciated as being erroneous by the High Court of Cassation and Justice. The latter appreciated that the participation of the three distributors, including Mediplus, was not the result of an independent decision, but the result of coordinated actions having as purpose or as a result the elimination of intra-brand competition. The investigation conducted by RCC made evident the existence of a collusive agreement between the manufacturer Eli Lilly and its three distributors. This collusion gave birth to a system of exclusivity on products that worked and led to a decrease in intra-brand competition. Thus, the manufacturer Eli Lilly allocated to A&A the range of human insulin named Humulin, to Relad the range of human insulin analogues Humalog and to the distributor Mediplus the oral antidiabetic Actos.

50. Contrary to the opinion of the first court, the High Court of Cassation and Justice retained that the probative value of the „Overview” document cannot be refuted. This document provided relevant information on the fact that, among possible scenarios concerning Eli Lilly's bids in the auction organized by the Ministry of Public Health, one favourite scenario was product sharing between the three distributors and the respective scenario was actually acted upon.

51. Moreover, the court also noticed that, for Mediplus, the first instance court could not have applied the conclusions taken in the ECJ decision¹ on the EC case Bayer-Adalat², since RCC demonstrated that the distributors had had a direct interest on portfolio sharing of Eli Lilly products. Bucharest Court of Appeal had upheld the claims of Mediplus that the following conclusions of above-mentioned ECJ ruling were applicable to the case:

- “For an agreement within the meaning of Article 85(1) of the Treaty to be capable of being regarded as having been concluded by tacit acceptance, it is necessary that the manifestation of the wish of one of the contracting parties to achieve an anti-competitive goal constitute an invitation to the other party, whether express or implied, to fulfil that goal

1 ECJ Judgment of 6. 1. 2004 — Joined Cases C-2/01 P AND C-3/01 P

2 Decision 96/478/EC of 10 January 1996 (OJ 1996 L201, p.1).

jointly, and that applies all the more where, as in this case, such an agreement is not at first sight in the interests of the other party, namely the wholesalers.

- (...) the mere fact that a measure adopted by a manufacturer, which has the object or effect of restricting competition, falls within the context of continuous business relations between the manufacturer and its wholesalers is not sufficient for a finding that such an agreement exists.”

52. However, the High Court of Cassation and Justice awarded Mediplus mitigating circumstances, taking into account that the agreement was facilitated by the conduct of the Ministry of Public Health and the fact that Mediplus did not initiate the collusion. These circumstances determined the Court to diminish the fine that was applied.

4. Sector inquiries

4.1 Sector inquiry on the film distribution market to cinemas in Romania

53. The main concern of the Romanian competition authority determining the initiation of the investigation in 2012 consisted in the fact that, according to the data received during 2011, certain film distributors had refused collaboration with certain cinemas. They did not distribute to the respective cinemas copies of their movies during the first running period from the national launch. This situation only concerned movies launched exclusively in cinemas.

54. In order to collect data and information on the functioning of the market, questionnaires were sent to the main film distributors and to cinema operators. The National Centre of Cinematography was also consulted during the investigation, as it is the specialized institution of the central public administration in the cinematography field.

55. The main conclusions resulting from the investigation were the following:

- The market of film distribution to cinemas is a highly concentrated market. Although this market decreased in 2011 compared with the previous year, the concentration degree of the film distribution market remains a high one. The concentration ratio is also high, with five large distributors holding 98.5% of the revenues recorded in 2010 and 2011.
- The local distributor establishes all the elements related to the launch and promotion of the film on the national territory in agreement with the licensor. Although there is a permanent consultation between the two parties involved, the licensor has the last word. In addition, throughout the license period, the licensor has the possibility to verify the distributor by means of periodic mandatory reports. Such contractual conditions are often met at the international level, being a common feature of the film industry.
- The distributor establishes the number of copies in agreement with the operator, taking into account the foreseen potential of the film, the technical features of every cinema and cost recovery. The terms under which the distributor's film will be broadcast by cinema operators are established after negotiation and set in a contract. Films are not assigned to operators under an exclusive regime.
- The selection of operators that will receive a certain title of film to be broadcast within their cinemas is made if certain criteria related to technical equipment location and history of their collaboration are met. Profitability analysis has a decisive role in such a case.

- The investigation did not confirm concerns about possible excesses of vertical integrated companies in their relation with trade partners. Three of the top five major distributors are vertically integrated (they are engaged in manufacturing and/or distribution as well as in cinema operation).
- The distribution of Romanian and European films is less accepted in multiscreen cinemas.

56. Following this sector inquiry, RCC is currently investigating a potential infringement of competition law by means of horizontal anticompetitive practices on the market of film distribution to cinemas and a possible vertical anticompetitive agreement on the film operation market.

57. The sector inquiry report as well as the conclusion drawn after the public consultation can be consulted at: www.competition.ro/latest-publications.

4.2 Sector inquiry on the construction market of roads and highways

58. The investigation was initiated in 2010 and it had as objective to identify the market functioning mechanisms. Its purpose consisted in discovering and correcting the eventual competition issues.

59. During the investigation, RCC requested information from the companies in the sector as well as from the administrators of the public road network. The analysis included the market of the materials used for construction works, the design services market and that of technical consultancy related to the road construction market.

60. The key findings of the investigation were the following:

- At national level, the road construction market is a low concentrated market. During 2007 – 2011, around 640 companies were active on that market.
- However, in some areas of Romania, the authorities identified certain competition specific conditions: there is certain rigidity and even a reduction of the supply; fewer entries of new players on the market; an increasing trend of the market concentration degree; high market shares of the top five market players.
- Joint ventures between companies created for bid participation and for work execution are very frequent and they do represent a common feature of the market. Although they are legal according to the law on public procurement, in terms of competition, they can lead to market malfunction, as they promote the exchange of sensitive information between market participants and limit their ability to compete with one another or with third parties according to their quality of independent undertakings.
- Although legal, the addenda to the original contract according to which the winner of the bid executes the work at a value that exceeds the other offers submitted by some of its competitors may be regarded as a market malfunction; in these cases, the winner negotiates directly with the contracting authority the new value of the work. This value will no longer be the result of a competitive tendering manifested during a bid procedure.
- The execution deadlines have been exceeded for most sections of the highways constructed in Romania with more than 365 days.

- The simultaneous implementation of a series of road construction contracts without really having the necessary resources may lead to market malfunctions by delaying the term of execution and, implicitly, by increasing the costs.
- Certain upstream markets to the market of road and highways construction (for example, the production and commercialization of mineral aggregates, road bitumen or steel) have been identified as being characterized by a number of economic factors that promote the emergence of anticompetitive agreements (stable demand, product homogeneity, symmetric costs, market entrance barriers, the economic power of the buyer/seller, etc.).

61. During the sector inquiry, RCC initiated four investigations concerning the potential anticompetitive agreements. The sector inquiry report as well as the conclusion drawn after the public consultation can be consulted at: www.competition.ro/latest-publications.

5. The role of RCC in the formulation and implementation of other policies, e.g. regulatory reform, trade and industrial policies

62. In 2013, RCC has issued 15 opinions on draft laws, including 9 favourable and 6 favourable with conditions. For those draft laws that were approved, the conditions imposed by RCC have been met. The competition authority also formulated 41 points of view and 77 opinions and completed 7 interventions to amend existing legislation or draft legislation with anti-competitive effects.

5.1 Amending the law on compulsory home insurance against earthquakes, landslides and floods

63. The commission for economic policy, reform and privatization of the Chamber of Deputies (hereinafter the Economic Commission) has requested RCC's opinion regarding the amendment of Law no. 260/2008 regarding compulsory home insurance against earthquakes, landslides and floods.

64. Prior to this, consultations were held between the two institutions and other stakeholders, including the Insurance Supervisory Commission (now the Authority of Financial Supervision - ASF) to identify the legislative solutions appropriate for this regulation.

65. Pool insurance against natural disasters (PAID) manages the compulsory housing insurance against the risk of natural disaster, i.e. earthquakes, landslides or flooding, under the supervision of ASF. PAID was formed as an insurance – reinsurance company in November 2009.

66. The compulsory housing insurance (PAD) covers three natural catastrophe risks – earthquakes, floods and landslides – for an insured amount of 10,000 euros or 20,000 euros, depending on construction type. The insurance premiums are in amount of 20 euros for type A buildings and 10 euros for type B. Premium amounts may be amended by decision of the ASF.

67. In November 2010, the law on compulsory housing insurance was amended by Parliament. Homeowners which have concluded optional insurance contracts that cover the risks set out in the Law on compulsory housing insurance are not required to enter into separate contracts for compulsory housing insurance. Consequently, insurance companies, including PAID shareholders, have launched similar products to PAD on the voluntary housing insurance market, which resulted in a steady and continuous reduction of PAID portfolio. In the first seven months of 2012, the PAID portfolio fell by almost 330,000 contracts, reaching 246,003 contracts.

68. In 2012 various legislative proposals were formulated to amend the law on compulsory housing insurance. One of the proposals to amend this law basically implied that voluntary insurance could only be

made with PAID member companies. This would have restricted the freedom of the insured to choose the supplier of the voluntary housing insurance, which would have led to reduced competition among insurers for such insurance, namely the reduction of competition precisely on the market that allows free expression of competition between insurers. RCC notified the Romanian Government (the Department for Relations with the Parliament) that such a provision is likely to lead to a distortion of the competitive environment in the housing insurance market in Romania.

69. To meet the objective of establishing the system of compulsory housing insurance without prejudice to the competitive environment and consumer welfare, RCC has presented the law-maker during consultations different possible options in order to eliminate anti-competitive provisions.

70. Among the relevant proposals, was also found the request to amend the provisions according to which "The individuals and legal entities who have signed a voluntary housing insurance with a PAID-member company, which covers all risks set out in the compulsory insurance, are not subject to this law".

71. Such a provision would make the law inapplicable precisely for those insurers who are shareholders of the insurance company managing the system of mandatory housing insurance. Basically, only PAID members would have been able to issue voluntary insurance to replace compulsory insurance, without sending to PAID the related premium for the compulsory insurance. The proposed amendment established a differentiated treatment between companies that are competing in the voluntary housing insurance market, providing a competitive advantage to insurance companies that are members of PAID. Given all this, it was necessary to repeal those provisions.

72. In June 2013, the law was passed by the Chamber of Deputies, maintaining the solution of RCC: the possibility of issuing PAD by all insurers licensed to underwrite catastrophe risks.

73. The institutional collaboration in the interest of competition and consumers between RCC and the Economic Policy Reform and Privatization Committee in the Chamber of Deputies is an example of good practice in the development and adoption of regulations. The final form of the project was made in consultation with RCC, and was passed with the observations of the competition authority.

5.2 *The legislative proposal regarding the establishment and operation of industrial parks*

74. The Romanian Government, through the Department for Relations with the Parliament, has requested the opinion of RCC on the legislative proposal regarding the establishment and operation of industrial parks, in order to formulate its own position regarding the draft bill. Subsequently, this position was sent to the Romanian Parliament, the developer of this regulation.

75. Following the analysis in terms of the incidence of national and EU competition and State aid legislation, RCC recommended the reformulation and completion of an article with the following wording "non-involvement of park manager in abusive practices which exploit park residents", an observation which was accepted.

76. According to the provisions of the legislative proposal, the administrator of the industrial park is a company that collects from park residents rent, individual maintenance expenses, common maintenance expenses as well as the price of the provided utilities.

77. Services related to the management of the industrial park can be provided either directly by the park administrator, or by other companies selected by the administrator. Thus, residents of industrial parks would end up paying for certain activities carried out by the administrator of the park, at a value set by the administrator or, in certain cases, would pay the value of activities provided by companies selected by the park administrator.

78. Such a situation would provide the administrator with a framework to adopt an exploitative and abusive conduct when residents of the park do not have alternatives under equivalent conditions.

79. RCC recommended also that not only the park administrator, but also park residents to be listed as potential beneficiaries of the facilities and that green-field investments should not be excluded from the scope of the regulation.

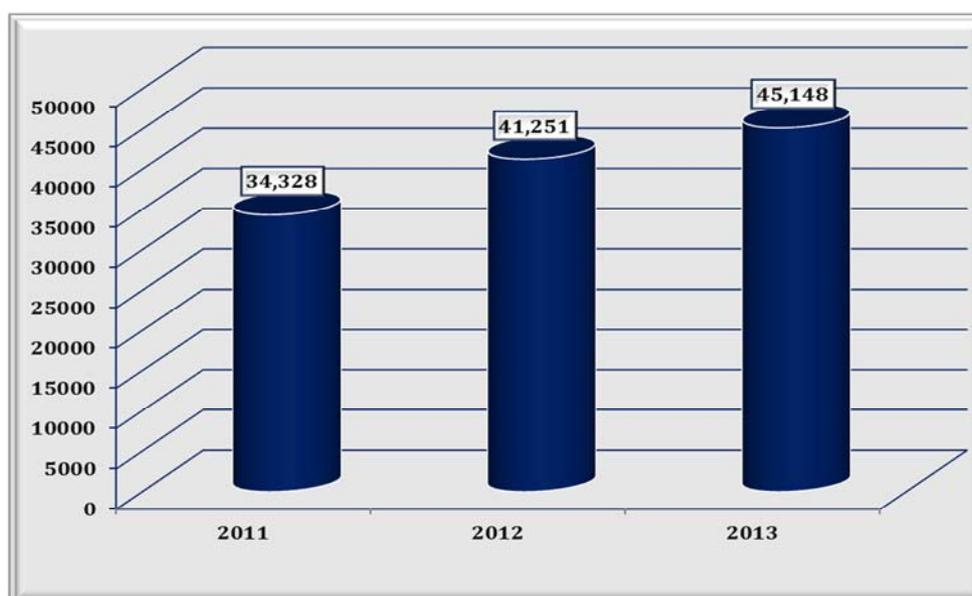
80. It was apparent in the legislative proposal, without being explicitly mentioned, that granting the title of industrial park, and therefore the facilities, was limited only to land that already has built infrastructure, which seems to exclude green-field investments. Considering the contribution of these types of investments to achieve the objectives set by the legislative proposal (boosting direct investment, regional development, creating jobs, etc.), RCC considered it appropriate to request a review of the draft legislation, so that green-field investments should not be excluded.

81. Government's point of view, communicated to the Parliament, included the observations of RCC and Law no.186/2013 was passed including these observations.

6. Resources

82. In 2013, the budget of the Competition Council was of RON 45,148 thousands. The comparative situation with 2011 and 2012 is presented in the graph below.

RCC budget (thousand RON), 2011-2013



83. The budget was by 9.4% higher than in 2012, respectively by 31.5% then in 2011. Most of this increase is a result of the state budget co-financing allocated for the two EU-funded projects currently under implementation. The two projects represented 11.1% of the total budget granted to the Competition Council in 2013, respectively RON 5,024 thousands.

84. Considering the above mentioned the budgetary execution in 2013 was 99.37%, without taking into account the projects with non-refundable external financing.

6.1 *Human resources*

85. In 2013, the personnel of the Romanian competition authority were 306 employees, increasing by 4% compared to 2012, and by 7% compared to 2011. RCC recruited a total of 27 employees for a non-determined/determined period/by detachment/ transfer. In the staff categories, the first place is occupied by competition inspectors, representing over 70% of the total personnel.

86. As regards the age of the employees, the most of the competition inspectors are in the category 30-40 years old (43.5%), in the case of competition inspectors registering the largest weight of this age category (48.1%). Within RCC, in 2013 the women represented 57.5% of the total number of employees, similar to 2011-2012. The majority of the RCC employees (around 57%) have at least one university diploma, being followed by those which graduated master courses (around 36%).

87. More detailed information on the 2013 activity of RCC may be found in the RCC Annual Report 2013, which is available at: <http://www.consiliulconcurrentei.ro/en/publications/annual-reports.html>