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**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS
COMPETITION COMMITTEE****Working Party No. 2 on Competition and Regulation****Co-operation between Competition Agencies and Regulators in the Financial Sector
- Note by Romania****4 December 2017**

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More documents related to this discussion can be found at:
www.oecd.org/daf/competition/cooperation-between-competition-agencies-and-regulators-in-the-financial-sector.htm

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Romania

1. The cooperation between the National Bank of Romania and Romanian Competition Council

1. On the 7th of June 2016, the agreement between the NBR and RCC entered into force in order to achieve an effective cooperation framework. The NBR is the central bank of Romania. It is an independent public institution with legal personality. Its primary objective is to ensure and maintain financial stability. Also, it supports the general economic policy of Romania.

2. In order to fulfil the commitments arising from agreements, treaties and conventions to which Romania is part of, the NBR cooperates with domestic and foreign authorities by providing information and by taking any necessary steps.

3. The purpose of the Agreement is to ensure compliance with the competition legislation regarding the resolutions of the NBR whenever there is a threat to financial stability. It also applies when a credit institution is in difficulty, situation in which State aid is provided for the purpose of supporting the financial stability. The overall scope of the Agreement is to reduce the potential negative economic impact to the lowest cost.

4. Another objective of the Agreement is related to the relevant information exchange and inter-institutional consultations, provided that the confidentiality of data is ensured. These exchanges and consultations are the result of fulfilling the responsibilities of the two institutions to ensure the compliance with the applicable legal requirements of the competition and State aid sectors.

5. Another purpose of the present Agreement is the improvement of the level of readiness of both parties in relation to any possible concerns regarding the State aid that can be provided to a credit institution that is facing major difficulties or situations that require urgent interventions with reference to the resolution of a credit institution by means of granting State aid necessary to restore that particular credit institution.

6. The cooperation established between the National Bank of Romania and the Romanian Competition Council implies but it is not limited to the following aspects:

- the establishment of the various stages that will be undertaken in order to obtain the authorization by the European Commission regarding the procedure of granting State aid to credit institutions that are facing major difficulties. This endeavor will also be addressed by an inter-institutional working group;
- the process of preparing the necessary stages that will be undertaken for the purposes of notifying mergers that could appear as a result of applying a resolution by the NBR regarding a credit institution that faces major difficulties;
- the exchange of relevant information and inter-institutional consultation in order to provide the RCC with the necessary documentation for issuing notices and for its transmission to the European Commission;
- the establishment of emergency plans and simulation exercises;
- setting up common procedures.

7. An example of the way RCC and NBR cooperated under this agreement is the one during the Grexit crisis from 2015. Under this context of financial uncertainty, several

meetings between RCC and NBR representatives took place in order to set a procedure and the necessary step to be taken in case the Greek banks from Romania were severely affected.

2. The cooperation between Romanian Competition Council and the Insurance Supervisory Commission – ISC (currently, Financial Supervisory Authority)

8. On the 5th of October 2004, the RCC and the ISC/FSA signed a protocol regarding the establishment of the bases for cooperation between the two parties for the promotion of competition in the insurance sector. The FSA represents the regulator of the insurance sector in Romania. It is an autonomous, specialized, independent and self-financed administrative authority. The FSA exercises its duties by taking over and by reorganizing all attributes and prerogatives of the National Securities Commission, the Insurance Supervisory Commission and the Private Pension System Supervisory Commission.

9. Some of the main current attributes of the FSA include: drawing up and/or endorsing draft regulatory acts regarding the insurance sector, authorizing the emergence of insurance and reinsurance brokers, approving the direct and indirect shareholders of the insurance and reinsurance brokers, taking any necessary measures to ensure the compliance of intermediation practices in the insurance sector with specific prudential rules and so on.

10. The protocol between the above mentioned parties aimed at protecting, maintaining and stimulating a normal competition environment and, also, at promoting the stability of insurance-related activities in Romania. Currently, the protocol is no longer in force due to the fact that the ISC has undergone a number of structural changes through the adoption of Law No. 237/2015 (becoming the FSA). The occurrence of this event triggered the need for another protocol on cooperation, protocol that is currently a subject under discussion between the parties.

11. Despite this, RCC has continued the cooperation with the FSA outside the framework of a particular protocol, but in the spirit of good inter-institutional relations, in order to achieve the stability of the insurance sector on the basis of effective competition. On that note, the FSA has provided valuable data to the RCC for its analyses in two cases. The first case is related to an RCC study regarding the life insurance sector in Romania that was finalized in November 2014. Its objective was to achieve a better understanding of the insurance sector and, particularly, of the life insurance segment at a national level and to provide RCC recommendations regarding the development of the latter sector and the promotion of the Romanian consumers' interests.

12. The second case is the Report regarding the sector investigation on the automotive insurance sector in Romania, which was finalized in December 2015. FSA has also provided in this case valuable data to the RCC in its endeavor to analyze and comprehend all the relevant aspects related to different categories of automotive insurance, especially the third party liability insurance (TPLI). In this particular report, RCC has issued a set of recommendations with reference to the latter insurance category, most of which have been taken into consideration by the FSA in its proposals for the national legislation regarding the insurance sector. Some of our recommendations were related to the introduction of the direct compensation system, the consideration of the driver history in

the calculation of the bonus/malus class, the use of telematics technologies to determine TPLI premiums etc.

13. In both cases, there have been data exchanges between the two institutions and several bilateral meetings that helped RCC to better understand those markets. The main recipient of the recommendations issued by the national competition authority has been the FSA.

3. The cooperation between Romanian Competition Council and the Romanian Consumer Protection Authority in relation to the banking sector

14. In 2009, in a joint effort related to the transposition of the Consumer Credit Directive (CCD) into the national law, RCC cooperated with the RCPA, the competent authority for the transposal of this directive.

15. The two authorities have an effective cooperation relationship, with a functional Memorandum of Understanding in place.

16. In this instance, they argued that a series of measures should be included in the national legislation transposing the EU Directive:

- extending the scope of the normative act to all types of consumer credits;
- applying the provisions of the normative act also to on-going loan contracts, given the fact that such contracts were lengthy and their exclusion from the scope of the regulation would have maintained the status quo for another 20-25 years and therefore the intended benefits on competition would have lost in intensity;
- eliminating the early reimbursement fee for variable interest rate loans;
- lowering the early reimbursement fee for fixed interest rate loans at 1%.

17. The cooperation between the two authorities addressed their policy goals, considering the fact that the outcome is bivalent – being related to both pro-competitive effects, and benefits for consumers.

18. Furthermore, for the purpose of strengthening this partnership, the RCC has established a group of experts from the legal and investigative (retail banking) units to support the RCPA team in drafting the new normative act and to provide policy advice. The management of both authorities had several policy and strategy joint meetings, apart from participating in several Government meetings where the draft has been discussed.

19. Additionally, the RCC and the RCPA convinced the Romanian government and the Parliament to eliminate the penalty for early reimbursement for all bank consumer loans.

20. The national competition authority proposed to the RCPA to extend the elimination/reduction of the early reimbursement fee to all types of consumer loans, including on-going loans, which supported the idea. Finally, it was implemented through a governmental ordinance.

21. The benefits associated with this measure can be described in terms of: increased client mobility, lower switching costs and higher competition on the retail banking market. This allowed consumers to refinance or re-negotiate their loans, thus lowering the burden on low-income consumers heavily stricken by the post-2008 financial crisis.

22. Another subject for future cooperation between the RCC and both the NBR and RCPA is represented by the EU Directive 2015/2366 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC (also known as Directive PSD2), which should be transposed in the EU member states legislation by the 13th of January 2018.

23. After its transposition, new players will emerge on the market (e.g. Fintech companies). In Romania's case, the competent authorities responsible also for the transposition are the RCPA and the NBR. Also, the draft regulatory act will be submitted to RCC for analysis regarding the compliance with the provisions of the competition law, whether or not it will raise any competition concerns (e.g. entry barriers for the new actors on the market). Their access to customer data (with customers' consent and through safe and efficient channels) will also be a subject of interest for the Romanian Competition Council.

24. Also, in Romania, a draft regulatory act related to the transposition of Directive 2014/92/EU on the comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic features that also comprises provisions in relation to price comparison websites is currently being discussed in the Parliament. A subject of particular interest for the RCC is customer mobility, a subject of high importance for the competition authority. In addition, the provisions in the draft regulatory act regarding price comparison websites and an increase in transparency are aimed at helping customers in taking informed decisions.

4. Conclusions

25. The national competition authority has a history of good cooperation with public institutions and bodies, including the regulating authorities from the financial sector and also the RCPA. The mentioned institutions have provided the RCC with valuable information, statistics and expertise which helped the competition authority to better understand the specificity of their fields of activity. This information was used by the RCC in its analyses and endeavors to enforce the competition law. At the same time, they have cooperated in the transposition of European Directives in the cases where the NBR and the RCPA are the competent authorities, to the customer's welfare and interests.