

Directorate for Financial and Enterprise Affairs  
COMPETITION COMMITTEE

## Annual Report on Competition Policy Developments in Romania

21-23 June 2017

*This report is submitted by Romania to the Competition Committee FOR INFORMATION at its forthcoming meeting to be held on 21-23 June 2017.*

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## Executive Summary

1. The results achieved in 2016 show that the institution has the ability to adapt to the competition challenges of each sector. We have combined the tools that we have at our disposal so as to provide the functioning of the markets based on the principles of effective competition.
2. We have started to use innovative practices and we have stepped up the pace of our work, which makes us more effective in achieving our goal of detecting and sanctioning anticompetitive practices.
3. We succeeded to complete a record number of investigations - 25, by 19% more compared to 2015 and by 56% more than in 2014, out of which some of them older, which allow us to further focus on important areas.
4. In 2016, we have recorded an important performance: a record number of recognitions of the competition legislation infringements. More than half of the sanctioned companies have recognized the violation of the law, which show both a maturation of the companies, but also that the institution is becoming increasingly stronger.
5. At the same time, the investigations initiated in 2016 are in majority focused on the most harmful forms of anticompetitive behaviors: about 60% of new cases are envisaging possible agreements between competitors or forms of abuse of dominant position.
6. The sector inquiries completed or which were in the public consultation stage in 2016 have analyzed key areas with direct impact on consumers, such as car insurance, electricity, drug distribution. We should mention that a large part of the recommendations that we have made to improve the competition in the auto insurance market were included within the new legislation on compulsory insurance against civil liability. Also, I emphasize the contribution of RCC in improving the Law on community services of public utilities.
7. With regard to the economic concentrations, the number of the notified operations has increased by almost 70% compared to the previous year; however, the average duration of the analysis of these cases remained the same with the one registered in 2015 namely two months. In this area, there were two special transactions which have been authorized with commitments: the takeover of Billa by Carrefour and of PC Garage by Dante (Emag).
8. We must mention the fact that 2016 was the second consecutive year when the anticompetitive deeds sanctioned by RCC were **fully confirmed** by the High Court of Cassation and Justice.
9. Another important achievement of the past year is also the launch of the "Prices Monitor". All those involved have worked intensively, but the result was a successful project, which needs to be maintained and developed further.
10. The project was started as a follow-up of RCC's actions on the food retail market, respectively the monitoring of the VAT reductions, initially on bread and then on all food products. The intention of the authority is to create a tool that provides consumers with the information they need for their weekly food purchases, and at the same time helps consumers make a motivated choice between the offers of several stores.

11. The price monitor works as an on-line platform ([www.monitorulpreturilor.info](http://www.monitorulpreturilor.info)) with data on the prices of certain products on the shelf, the information being electronically transmitted by retailers (future plans include a automation of the process by interconnecting the databases). The retailers participating in the pilot phase are Mega Image, Lidl, Kaufland, Selgros, Carrefour, Penny, Profi. The platform is managed by the RCC carried out with the support of participating retailers, the National Consumer Protection Authority, the Nielsen Market Research Company and the GS1 Association.

12. The consumer can make a selection based on products/total basket, products/shops/city/geographical area/ after the initial selection, the Price Monitor will return information about the price, the chosen products or the entire basket available in the participating stores. The 2 prices returned by category are:

- **The cheapest product price per store** (own brand or brand name products, which may vary from retailer to retailer) and
- **The price of a branded product common** to most retailers.

13. The application has raised interest at EU level, the federal competition authority in Austria asking the RCC for details of the project.

14. The pilot program is to be expanded to include multiple stores across the country, multiple product categories, and increasing the data uploading frequency (up to an automatic upload without any delay compared to actual shelf prices).

15. With the support of OECD, RCC has completed the project on the analysis of the current legislation in three key sectors of the economy and its impact on the competitive environment: the processing of agri-food products, the transport of goods and the construction materials. The report drawn up following this project includes 152 recommendations to improve the regulatory framework in the three sectors, recommendations which are currently being implemented.

16. In 2017, we will have in our attention a series of important economic sectors. Thus, we will complete the sector inquiries relating to the management of surface waters, the natural gases, the multiplay package communication services and the exploitation of natural mineral waters.

17. We will also complete the investigations on the possible infringement of the competition rules in the fields of insurance, tourism and of the consumer products retail. We also estimate the completion of two cases involving possible bid rigging practices which affected the procedures for acquiring electric meters and the related equipment for the measurement of electricity and for the purchase of natural gas connections and for contracting modernization and maintenance works of the related facilities.

18. By granting specialized assistance in the field of State aid, we will continue to cooperate with the Government and the European Commission for restructuring the following companies: CFR Railways, Oltchim, Romanian Post Company, Hunedoara Energy Complex, regional airports, the Romanian Television.

19. 2017 is a year with new challenges, giving us the opportunity to prove that we are a stable, efficient and professional institution, whose activity is improving from year to year. In addition, in 2017, RCC is celebrating 20 years of activity, an event marked by a series of events organized in Bucharest and within the country.

## 1. Enforcement of competition law and policy: Action against anticompetitive practices, including agreements and abuses of dominant position

### 1.1. Essential economic sectors from the perspective of the competition policy: The selection of the 14 sectors

20. In 2016, RCC has updated the *List of the essential sectors for the Romanian economy from the competition point of view*, established in 2005, with Italian assistance within the Twinning Project RO/02/IB/FI/02.

21. The selection of the new essential sectors has been made based on two fundamental coordinates:

- the overall impact over the economy: the sector has strong connections with other sectors (for example, it represents a crucial input for many economic activities), it can have an impact on the competitiveness of the economy as a whole and/or can influence essential macroeconomic variables;
- the direct impact on consumers: the sector has a high share in the consumption basket, it represents a fixed cost for consumers, it inevitably has a major impact on the quality of life and/or it represents necessity goods.

22. Some of the sectors (for example, banking, insurance, telecommunications, liberal professions, energy) have significance from both perspectives.

23. Another important element to consider in the selection of the essential sectors relates to the structure of the markets that determine the existence of a certain level of market power. Most of the sectors chosen contain markets that have structures which tend to the oligopoly, monopoly or, at least, to the monopolistic competition. From this point of view they lend themselves to a systematic approach, since the competition issues are generally common with the European Commission and with other EU Member States, with differences mostly at regulatory level.

**Table 1. The essential/key sectors of the national economy from the competition policy perspective**

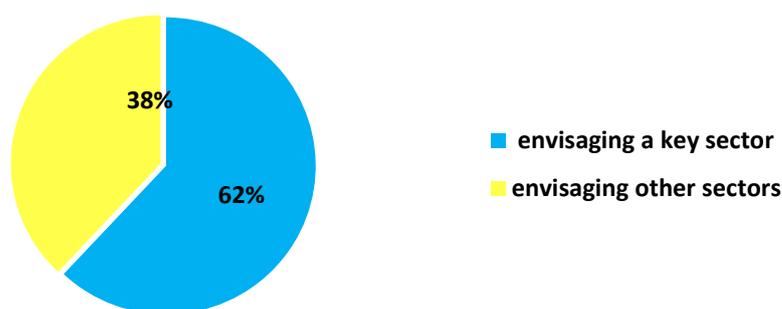
Name of the sector
Banking
Insurances
Media
Transports
Communications and information technology
Liberal professions
Health
Food sector
Electronics and home appliances
Products for personal use
Energy
Public utilities
Constructions
Automotive

## 1.2. Essential sectors analysed during 2016

24. **The investigations opened in 2016** by RCC concerned the following markets in key economic sectors:

- payments made by short messages via mobile phones;
- water and sewer services;
- notary services;
- medical services paid by the National Health Insurance House;
- distribution of drugs;
- rental of land belonging to the port infrastructure, dredge, maintenance;
- access to the physical infrastructure associated with the communications networks, rental of equipped/non equipped optic fibre and the related services;
- access to airport infrastructure.

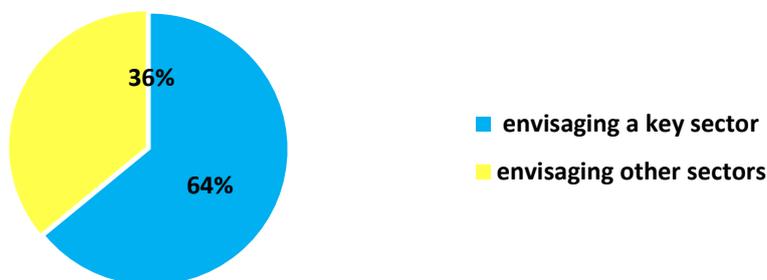
**Figure 1. Scope of investigations started in 2016**



25. **The investigations finalized in 2016** by RCC concerned the following markets in key economic sectors:

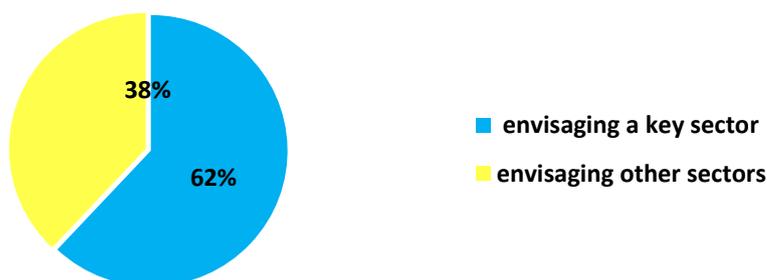
- the distribution and marketing of liquefied petroleum gas (LPG);
- local taxi transportation services and related services;
- central heat distribution;
- the distribution and marketing of automotive wheels;
- road construction works;
- primary and secondary marketing (trading) and related services;
- communication services through the media;
- financial market and IT services;
- maritime towage and pilotage;
- production and trading of electricity;
- Financial audit.

**Figure 2. Scope of investigations concluded in 2016**



26. The following graph describes the weight of the investigations on the possible infringement of **the competition legislation on-going at 31.12.2016**, envisaging key sectors of the national economy from the perspective of the competition policy.

**Figure 3. Scope of investigations on-going at 31.12.2016**



27. The health sector is envisaged by most of the investigations ongoing at 31.12.2016 that are targeting key sectors (19 %).

28. **80% of the sector inquiries initiated in 2016** analysed key sectors of the national economy from the competition policy perspective, namely:

- exploitation of natural and mineral resources;
- copyright and related rights;
- retail banking services;
- the production and marketing of cement;
- Electronic commerce, regarding the marketing strategies.

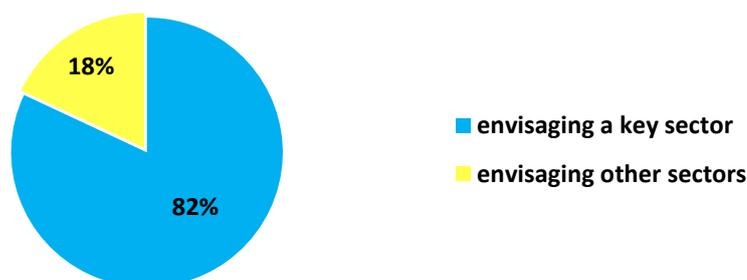
29. All the sector inquiries concluded **by RCC in 2016** envisaged key sectors of the national economy from the competition policy perspective, namely:

- electricity,
- sanitation services at national level;
- services provided by insolvency practitioners,
- auto insurance;

- Rental of piping support to the electronic communications networks.

30. The following graph shows the situation of the sector inquiries on-going at the end of 2016:

**Figure 4. Scope of sector inquiries on-going at 31.12.2016**



31. Over half of the economic concentrations analysed in 2016 concerned the 17 essential sectors of the national economy from the competition policy perspective.

**Figure 5. Scope of economic concentrations analysed in 2016**



32. Most of the economic concentrations that have targeted key sectors were in **the food sector** (29%) and **health care sector** (18%).

33. During 2016, RCC has proceeded for approximating the legal framework with the competition rules, through issuing formal opinions envisaging important key sectors, such as:

- **insurance** (the new legislation concerning the compulsory insurance against civil liability);
- **Public utilities** (the law for the modification and completion of the Law on public utilities community services).

34. An important accomplishment towards implementing pro-competitive reforms of the legal framework was the completion, along with the Chancellery of the Prime Minister, the Ministry of Public Finances and the OECD, of a project focused on the competitive impact assessment of existing regulations in three areas with significant share

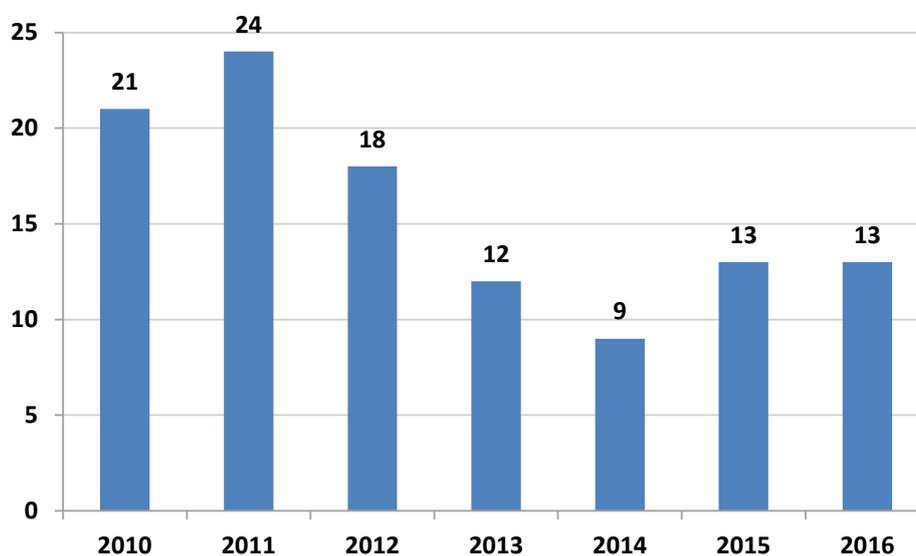
in GDP: food processing, transports and constructions (mainly construction materials and organization of bids in this area).

35. The *Report on competition in key sectors* published by RCC in 2016 analysed the following sectors: energy, motor insurance, pharmaceuticals and motor fuels. At the same time, the Aggregate Index of Competitive Pressure (IAPC) was calculated for the fourth consecutive year. IAPC aims to measure the tendency towards competition of certain markets or industries of the national economy. **In 2016, RCC has assessed 46 industries.**

### 1.3. Opened investigations

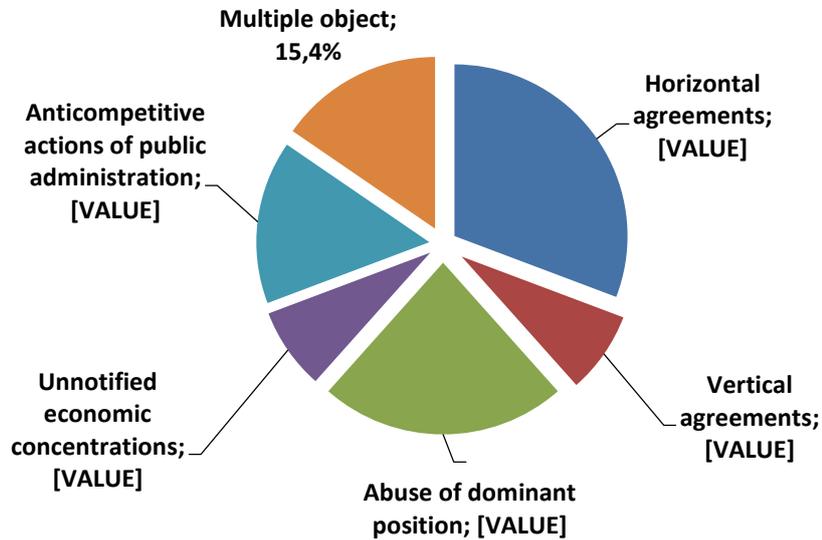
36. RCC launched 13 investigations into possible violations of competition law.

Figure 6. Number of investigations/year opened 2010-2016



37. The largest part of investigations triggered in 2016 concerned horizontal anti-competitive arrangements.

Figure 7. Structure of investigations opened in 2016, according to the practice investigated

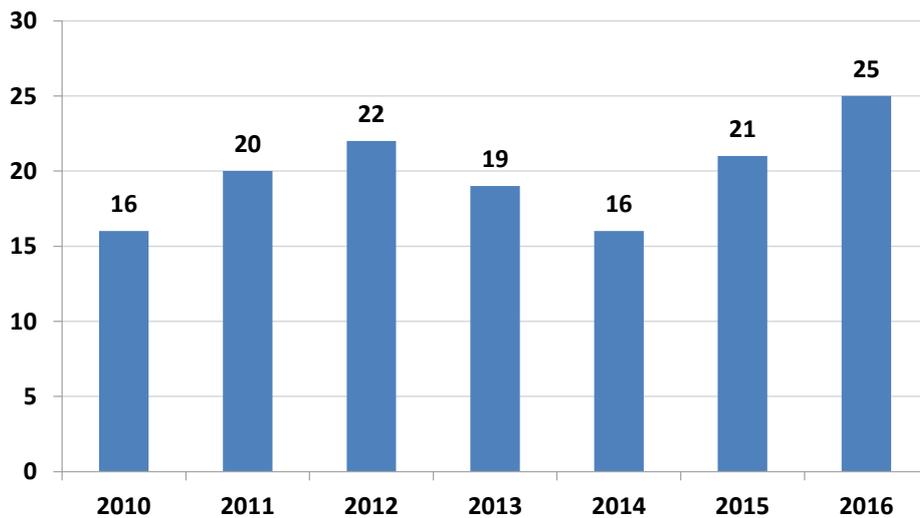


38. Six of the investigations opened in 2016 concerned the infringement of both national and Community law.

#### 1.4. Concluded investigations

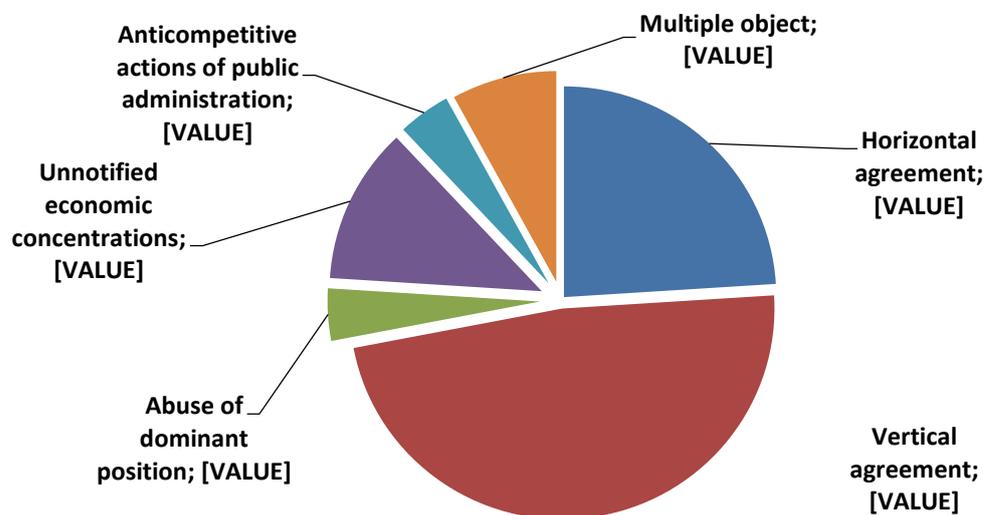
39. In 2016, RCC finalized 25 investigations into possible violations of competition law.

Figure 8. Number of concluded investigations, 2010-2016



40. Most of the investigations finalized in 2016 concerned anti-competitive agreements.

**Figure 9. Structure of investigations finalized in 2016, according to the practice investigated**



41. Six of the investigations completed in 2016 concerned the infringement of both national and Community law.

42. Of the total investigations regarding possible infringements of competition law finalized in 2016:

- fines were imposed in 16 cases;
- 3 procedures were closed by accepting commitments;
- In 6 cases no infringement was found.

43. In 13 of the 16 cases, 94 undertakings admitted anti-competitive facts, thus benefiting from a reduction in the fine.

### 1.5. Investigation in progress at the end of 2016

44. At the end of 2016, RCC conducted 35 investigations and 13 sector inquiries.

45. In the last 5 years, the total number of ongoing investigations at the end of the year has declined steadily as the number of completed investigations increased.

46. A total of 19 investigations in progress at the end of 2016 concern both national and Community law infringements.

### 1.6. Dawn raids

47. Within the dawn raids performed in 2016 in 13 investigations, RCC inspected 68 headquarters/business establishments belonging to 61 undertakings.

## 1.7. Fines

48. In 2016, RCC sanctioned 162 entities, the total fines being 76,802,672 lei (17,102,225 euros). For comparison, the institution's budget in 2016 was 47,235,000 lei.

49. From the point of view of the type of infringement, 57.1% of the total sanctions applied were for vertical agreements, 25.8% for cartels, 15.8% for abuse of dominant position, 1.1% for implementation of mergers prior to the notification and issue of an RCC decision and of 0.1% for non-disclosure and non-inspection.

## 1.8. Description of significant cases

### 1.8.1. Cartel - Pilotage and towage services for ships

50. The investigation was initiated in 2012 at the complaint of certain undertakings against the rules established by the National Company “Maritime Ports Administration” SA Constanța (NCMPA), which is the national company having a double role: regulator and undertaking. This investigation analysed the access to the maritime services of pilotage and towage and the functioning of the respective markets starting with July 2012.

51. As a result of the analysis carried out within the investigation, **on the maritime piloting market**, RCC proved the existence of a **cartel agreement** between Canal Sea Services SRL, Black Sea Pilots SRL and Maritime Pilot SRL, under the form of competitive behaviour coordination. This coordination has affected the competition in the ports under the management of NCMPA.

52. The competition authority also proved the **abuse of dominant position of NCMPA** under the form of imposing anticompetitive clauses within the services framework contract. These clauses led to an anticompetitive foreclosure of the market through its cartelization effect, thereby eliminating any form of competition between the undertakings on the market, to the detriment of both the operators and the beneficiaries of these services.

53. **On the market of maritime towage services**, RCC proved a **cartel agreement** between Canal Sea Services SRL, Black Sea Services SRL, Maritime Towing Company Coremar SA and Logistic Remo SRL, a cooperative joint venture founded by the first three enterprises, which affected the competition within the ports under the NCMPA administration. The market was affected by the anticompetitive coordination between them. On the same market, the competition authority also identified an **anticompetitive behaviour** of the port administration, which, as public entity empowered by the State, established criteria for access to the maritime towing service market in a form (number and structure) that has prevented any manifestation of competition on this market.

54. RCC sanctioned the companies involved with a fine in the amount of 22,317,212 lei, imposed certain measures, on the basis of its legal prerogatives, and made a series of recommendations, addressed both to the port administration and to the Ministry of Transports. RCC's decision was appealed to the court.

### 1.8.2. Cartel – bid rigging - Supply of dairy products

55. In 2016, RCC has completed the investigation concerning the possible bid rigging of a public procurement procedure - organized within the “*Croissant Roll and Milk*” government programme – by the undertakings: Albalact SA, Dorna SA, Simultan SRL, Lacta SA and Deltalact SA.

56. Following the investigation, RCC had found that, during the public procurement procedures, the five enterprises **have acted in a concerted manner**, in the sense that, in the first stage of the procedure they have submitted bids for all the lots tendered by the contracting authorities, while in the second stage - electronic tendering – they have allocated within them the lots for which they have bid.

57. Specifically, within each tender procedure, in the final stage of the electronic auction, each bidder has chosen 1 or 2 lots to bid for, while the other bidders did not present offers for the respective lots, thus eliminating competition within the public procurement procedures.

58. The competition authority concluded that the undertakings under investigation have infringed the competition rules and applied fines totalling 8,591,540 lei.

59. Two of the five enterprises, Albalact SA și Simultan SRL, admitted committing the anticompetitive act, thus receiving a reduction of the fine.

### *1.8.3. Economic concentration authorized with commitments - The acquisition of Billa by Carrefour*

60. Carrefour Nederland B.V., the purchaser, is present in Romania through the hyper/supermarket retail stores. The transaction covered the network of 86 "Billa" supermarkets and a warehouse, as well as the real estate management and development activity in connection with this activity.

61. In the present case, the relevant markets considered were:

- **retail food and non-food products for daily use** sold through hypermarket/supermarket stores, discounters and similar stores located within 10-minute driving distance from each Billa store in Bucharest and a maximum of 30 minutes driving distance from each Billa store at national level, namely the city's area and the one of its neighbouring localities;
- **the market for supplying daily-use consumer goods** at national level (in this case, the complete definition of the supply market has been left open).

62. The analysed operation led to horizontal overlaps in Carrefour Group's and Billa stores, in the retail of daily-use products on 15 relevant local markets defined at 10 minutes by car to the stores purchased in Bucharest and at a distance of 30 minutes at national level, respectively a geographical area covering the area of the city and the surrounding areas. In 18 cities, the parties' activities did not overlap, so the operation offered to Carrefour the opportunity to enter new local markets.

63. The analysis was carried out under restrictive conditions for defining the relevant market, namely:

- the analysis was made both with the inclusion of traditional trade in the relevant market and without including it;
- As far as traditional trade is concerned, it has not been fully integrated, only food stores being taken into account - according to the GFK market study;
- Taking into account only the modern trade in the market definition, RCC requested information from the main players on the modern retail trade market;
- Sales through cash & carry stores were not taken into account.

64. RCC also made a projection of the market shares of the parties during the post-merger period, respectively 2016-2017, taking into account the stores that will enter the

market during this period. Also, the efficiencies (turnover per square meter) recorded by stores in affected areas in the pre-concentration period were taken into account.

65. The aggregate market share of the parties involved in the relevant markets exceeded 40%, including traditional trade, in the relevant geographic market of Brăila.

66. According to the Law, it is presumed that an undertaking is in a dominant position, so it can have the force necessary to affect the market, if its market share in the relevant market exceeds 40%.

67. Taking into account the aggregate market share of Carrefour and Billa in the relevant market of Brăila, the projections of market shares and the fact that there were no new stores planned to be opened or extensions of already existing stores by the other competitors for the forthcoming period, it has been decided that the operation raised doubts regarding its compatibility with a normal competitive environment.

68. Furthermore, the analysis of the possible unilateral effects of the notified concentration has led to the conclusion on the possibility of unilateral conduct of the resulted entity.

69. In order to remove any competition concerns, Carrefour submitted the proposal to implement transfer commitments in Brăila County, namely:

- two supermarkets operating under the „Carrefour Market” brand;
- a supermarket that operates under „Billa” brand.

70. As a result RCC found that the **economic concentration no longer significantly impedes effective competition**, in particular as a result of creating or strengthening a dominant position in the relevant markets identified.

71. At the end of 2016, the parties requested approval to RCC for buying the two Carrefour Market stores in Brăila by Zanfir SNC Focșani. As a result of RCC's analysis, it has been found that Zanfir SNC Focșani fulfilled the legal requirements as to the suitability of the buyer.

72. The competition authority approved Zanfir SNC as the buyer of the Carrefour Market stores in Brăila.

73. Thus, given that Zanfir SNC was not present in Brăila, the transaction did not present competitive risks, but led to the emergence of a new competitor on the relevant retail food market in Brăila.

#### *1.8.4. Sector inquiry - Auto insurance*

74. The sector inquiry was initiated in 2013 and aimed at improving the knowledge of the existing competitive mechanisms on this market, namely the mandatory liability insurance (MTPL) segment and the CASCO (Casualty and Collision) optional insurance. It also analysed the relationship between insurance companies and auto repair units.

75. The sector inquiry led to a series of general conclusions regarding the evolution of the sector under consideration, conclusions regarding competition in the respective sector and also regarding some identified inefficiencies, as follows:

- The auto insurance sector is relatively underdeveloped in Romania, with the share of underwritings as a percentage in GDP fluctuating around 0.7% in 2011-2015.
- In recent years, the share of auto insurance in total general insurance has risen steadily to around 72% in the first half of 2015.

- The level of intermediate premiums has increased significantly over the last few years in the MTPL segment, while CASCO insurance intermediation has remained relatively constant; as a result of these developments, intermediary brokerage accounts for approximately 64% of all CASCO subscriptions in 2014 and about 81% for MTPLs.
- In recent years, the damage rate consistently and significantly exceeds the 100% critical threshold for both types of insurance; as a consequence, companies that rely heavily on motor insurance are exposed to financial risks.
- Given the very nature of the insurance product, MTPL customers do not consider themselves as direct beneficiaries of this insurance, which is why policyholders tend to choose the insurance company preponderantly based on the price of the policy, not on other criteria (for example, other covered risks, quality of insurance, etc.).
- There are signals of fraudulent behaviour on the part of insurance companies in the sense that certain auto insurers do not correctly and fully reveal the damages they have incurred, do not constitute reserves or are not properly reinsured.
- MTPL policyholders, as well as some insurance intermediaries, have a low level of knowledge of the bonus-malus system (B/M) and the possibility of transferring the B/M class for a newly acquired vehicle.
- There is a tense relationship between insurance companies and auto repair units, particularly those that are independent, which leads to certain behaviours at the limit of abuse and fraud on both sides.
- There are signs that the implementation of spare parts exchange markets by insurance companies leads to the purchase of parts only from certain suppliers, approved by insurers. This may limit the free competition between spare parts suppliers with undesirable effects on the consumers (policyholders).

76. Based on these conclusions, RCC formulated 24 recommendations to the Financial Supervisory Authority (FSA), the insurance companies and the Road Traffic Police, outlining the following:

- RCC has recommended to the authorised MTPL insurance companies to consider the possibility of extending MTPL insurance products to cover additional risks and to include related services offered to policyholders; for example, hybrid insurance products located on the borderline between MTPL and CASCO insurance could increase the importance of insurance quality (implicitly of the insurer) to the detriment of the price.
- FSA was recommended to continue the analysis with regard to the appropriateness of adjusting the regulatory framework so that the victim of the car accident would have the option to use his own MTPL policy for compensation, in turn the accident victim's MTPL insurer would claim said compensation from the MTPL insurer of the guilty party.
- The competition authority has recommended to the FSA to aggregate statistical data on the risk of damage and the value of compensation in the automotive sector, on homogeneous risk categories, and to disseminate aggregate data among companies that are interested in entering the market or those already active on the market.
- RCC recommended to the FSA to analyze whether the model used by National Company for Road Administration for the issue of the vignette could be used as an inspiration for the issuance of MTPL insurance.

- Road Traffic Police have been advised to intensify traffic controls on the existence of valid MTPL policies, especially in southern and south-eastern Romania, and above all on other motor vehicles, not necessarily automobiles.
  - RCC supported the cooperation between FSA and Romanian Traffic Police, so that in the subscription process, the authorized motor insurance companies would gain access to limited information on their customers' driving record.
77. Certain recommendations of RCC were included within the new regulation on mandatory auto vehicle liability insurance policies adopted in 2016.

## 2. Judicial review of RCC decisions in 2016

78. In 2016 RCC had a procedural quality in 173 competition court cases. These files accounted for 92% of the total number of files handled in court by the institution.

79. The percentage of favourable judgments ruled by the High Court of Cassation and Justice was 100%, the proportion of judgments favourable to RCC given in appeal by the Supreme Court being 95%.

80. At the same time, 81% of the fines were maintained in the appeal by the High Court of Cassation and Justice.

81. We present a series of irrevocably settled cases in 2016 by the High Court of Cassation and Justice.

### 2.1. Fuel Cartel Case – OMV

82. By Decision no. 97/2011, RCC found that six companies active in the distribution of automotive, petrol and diesel fuel, wholesale and retail, in Romania, including OMV PETROM SA (OMV), infringed national and Community competition provisions by participating in an agreement and/or concerted practice which had as object the cessation of Eco Premium sales on the Romanian market. For the violation found, RCC sanctioned OMV with a fine of 366,530,965 lei.

83. OMV lodged an appeal against the judgment of the Bucharest Court of Appeal. By Decision no. 1343 / 21.04.2016, the High Court of Cassation and Justice - the Administrative and Fiscal Litigation Department maintained as a lawful and substantive decision of RCC no. 97/2011 regarding the deed and guilt of the company, reducing the amount of the fine from 366,530,965 lei, representing 3.2% of the turnover achieved in 2010 to 297,806,409 lei, representing 2.6% of the turnover Achieved in 2010.

### 2.2. Setting the level of investing and introducing barriers to entry – UNEJ

84. By RCC Decision no. 58/2012, the National Union of Judicial Executives (hereinafter UNEJ) was sanctioned for violation of the national and Community competition rules, by adopting decisions regarding the establishment of forced execution expenses exceeding the legal framework established by Law no. 188/2000 on bailiffs and the setting of a fee for entry into the profession and, implicitly, on the market, at an excessive level (excessive barrier to entry) applied in a discriminatory manner. For the violation found, RCC sanctioned the UNEJ with a fine of 593.089 lei.

85. Against the decision of RCC, the UNEJ brought an action for annulment with the Bucharest Court of Appeal - the Administrative and Fiscal Court. The Court of First Instance partially upheld the action brought by the applicant, in part annulling RCC's Decision no. 58/2012. In deciding to do so, the Court held that the setting by the applicant of enforcement costs with a maximum ceiling is not an anti-competitive object, since no provision in the judgment requires bailiffs to request such a ceiling for each execution cost, giving them the opportunity to request any amount up to the maximum.

86. RCC appealed against the decision of the Bucharest Court of Appeal. The High Court of Cassation and Justice - the Administrative and Fiscal Court has admitted the appeal, maintaining as legal and sound RCC's Decision no. 58/2012 as regards the anti-competitive act and the fine imposed on UNEJ.

87. As regards the fine imposed on the UNEJ, the supreme court held that the competition authority correctly established the basis for the calculation of the fine by taking into account both the revenue of the UNEJ as an association of undertakings and the income of the territorial units of the UNEJ, which had a direct involvement in the decision-making process materialized in the adoption of UNEJ rulings which were the subject of Decision no. 58/2012.

### 2.3. Cartel case price fixing – KRONOSPAN

88. By the request filed and registered on 17.02.2016 at the Bucharest Court of Appeal, RCC requested the judicial authorization of unannounced inspections, which the competition authority conducted at the headquarters and in any other business premises belonging to the investigated enterprises operating on the local market of wood.

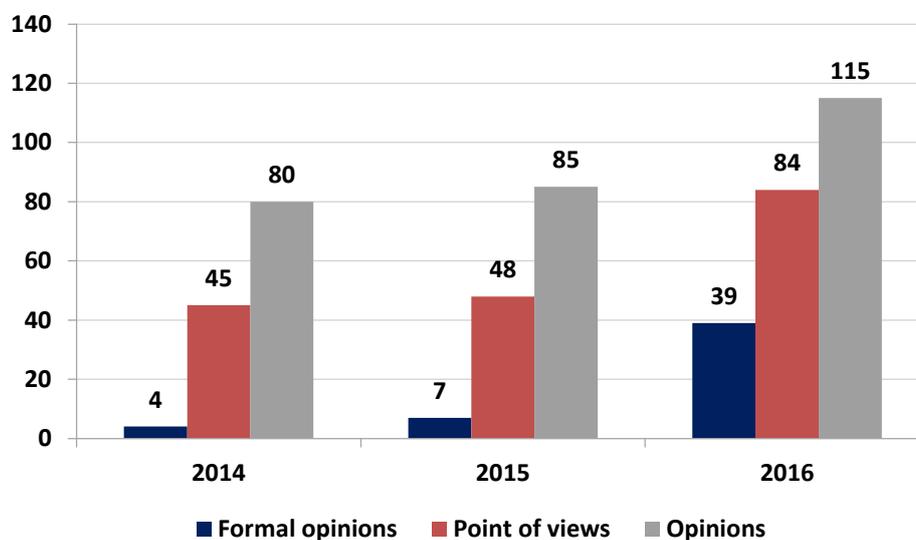
89. The Bucharest Court of Appeal admitted the request made by RCC, authorizing the unannounced inspections at the headquarters and other business establishments in which Kronospan Sebeş SA and Silva Logistic Services, among others, operate.

90. Given that the purpose of RCC for conducting an unannounced inspection is to obtain evidence of a possible anti-competitive practice, the unannounced inspection is the most effective investigative tool put at the disposal of the Authority, allowing the competition inspectors to gather information and of the documents currently existing at the registered office or secondary business establishments of the companies, eliminating as far as possible the risk of their alteration, concealment or even destruction. The inspection measure is consistent with the legitimate aim pursued by RCC, namely to identify and collect the information and documents necessary to substantiate the anticompetitive conduct under investigation.

## 3. Trade and industrial policies

91. In 2016, in order to make the legislative framework compatible with the competition rules, 39 formal opinions have been issued, while 84 point of views and 115 opinions have been formulated for regulations initiated by the Government and legislative proposals of the Parliament.

Figure 10. Number of opinions, views on competition, 2014-2016



92. We mention below some examples of draft normative acts that RCC analysed in 2016 from the perspective of being in line with the competition rules:

### **3.1. Public utilities: the adoption of Law no. 225/2016 for amending and completing the Law on community services of public utilities no. 51/2006.**

93. RCC proposed a series of amendments designed to improve the way local authorities provide community-based services of public interest as well as regulatory measures in this area - water supply, sewage and sewage treatment, production, transport, distribution and the provision of district heating, local sanitation, public lighting and local public transport.

94. New principles have been introduced to govern the organization, provision/delivery and management of public utilities, namely regarding:

- quality and quantity continuity,
- adaptability to user requirements,
- equal access to and non-discriminatory access to public service;
- consumer protection.

95. It was also stipulated that the procedure for awarding management delegation contracts is established according to the Law no. 98/2016 on public procurement, Law no. 99/2016 on sector acquisitions and Law no. 100/2016 on concessions of works and services.

### **3.2. Auto insurance: the adoption of Government Emergency Ordinance no. 54/2016 on compulsory insurance against civil liability in respect of the damage to third persons by means of vehicle and tramway accidents**

96. A series of proposals resulting from the sectoral investigation in the field of auto insurance, finalized in 2016, were taken over in the normative act, among which:

- Interconnection of the CEDAM database with that of the Vehicle Driving License and Vehicle Regime Directorate;
- The possibility for insurers to use telematics technologies in determining premiums for mandatory liability insurance;
- The aggregation of market data and their dissemination in order to alleviate a barrier to the entry of new insurers on this market;
- Providing insurers with access to the driver record for more accurate risk assessment;
- The repeal of the provision in the old regulation, whereby the insurers were obliged to practice the same tariffs, irrespective of the channel used;
- Direct compensation (the victim of the car crash has the option of using his own MTPL policy for compensation, and then his insurer returns against the MTPL insurer of the guilty party).

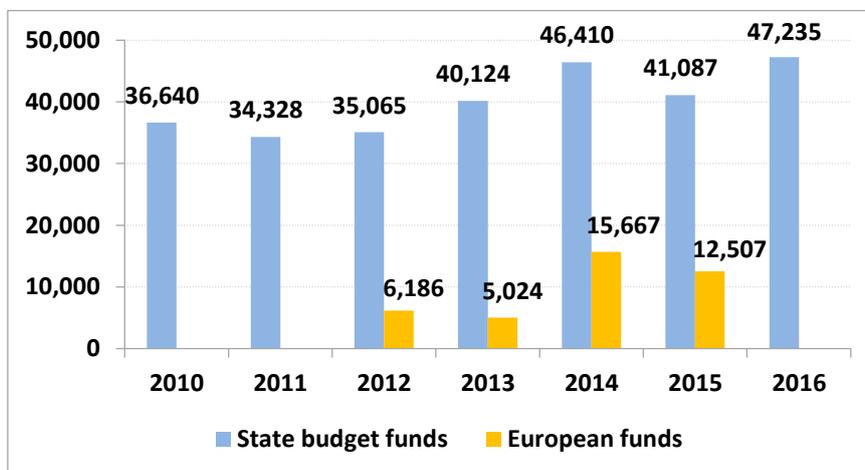
## 4. Resources of competition authorities

### 4.1. Annual budget:

97. In 2016, the Romanian Competition Council's budget was 47,235 thousand lei, decreasing by about 12% compared to the previous year.

98. The budget execution for 2016 was 97.74%.

Figure 11. Number of state budget funds, European funds, 2010-2016

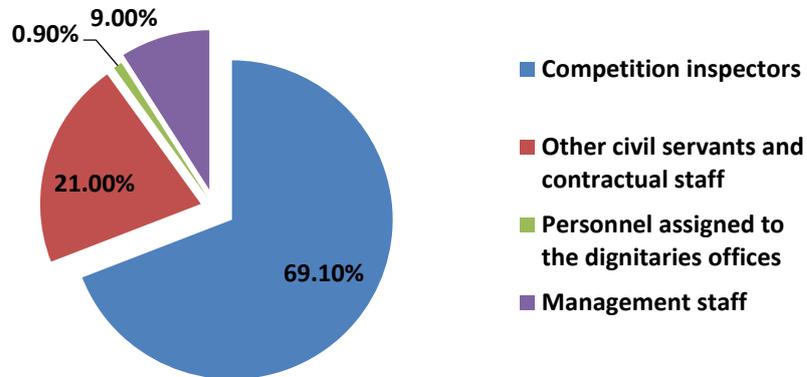


### 4.2. Human resources

99. In 2016, the staff of the Romanian competition authority represented 324 employees, divided in directorates, services and units.

100. The staff of Romanian competition authority is divided in civil servants, public managers and contractual staff.

101. The competition inspectors represent 69.1 % of the total number of staff.

**Figure 12. Staff structure by activity – 2016**

102. As regards the professional background of the competition inspectors, most of them are economists (54.1%), followed by legal experts (20.7%).

103. In 2016, the RCC recruited on an undetermined period 14 people as competition inspectors and recorded 5 departures from the institution.