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Global Forum on Competition

DOES COMPETITION KILL OR CREATE JOBS?

Contribution from Moldova

-- Session I --

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DOES COMPETITION KILL OR CREATE JOBS – LINKS AND DRIVERS BETWEEN COMPETITION AND EMPLOYMENT

-- Moldova --

1. The economies open to competition have registered much greater progress indicators, were developed much faster, at the same time enjoying a greater access to IT platforms, experience exchange with other states, therefore competition being a powerful stimulus for welfare. Many studies (conducted by the OECD and the World Trade Organization) prove that competition and the progress in IT have an adverse effect and directly influence the reduction of jobs or even the reduction of income, when certain economic sectors from the industrialized states are open for less developed countries. History, however, has shown that any progress had a negative effect over a smaller group of people, but much greater effect over the rest of the population. For example, when computers were invented, typewriter manufacturers were directly affected, but thousands of jobs were created in various economic sectors. The Austrian-American economist Joseph Schumpeter has named the effect – “**Creative Destruction**”. In order to alleviate these negative effects, the state must intervene with programs and special policies, particularly with state aid, which will be discussed later, or the competition legislation, which sets out clear mechanisms for the development and liberalization of markets. The effect of punishing the anticompetitive actions of a group or several undertakings brings more prosperity and welfare to both undertakings and consumers. According to World Bank studies, in the case of identified anticompetitive practices of setting the prices, the consumer pays 40% more and 80% more when a cartel is detected.

2. The direct actions of the Competition Council of Moldova in promoting the competition regulatory framework are directly related to the impact on consumers. For example, merger control ensures an increased diversity of consumer goods on the markets and lower prices for the final consumer. State Aid control contributes to economic and social growth. The prohibition of anticompetitive agreements contributes to the preservation of the existing jobs or even to the creation of new ones, and to ensuring a competitive environment in all the economic sectors. Being a country in transition, with European aspirations, Republic of Moldova, starting from 1998, has included on its agenda the goal of joining the European Union. The new law on competition and state aid was a national priority for the year 2011 and a condition for Moldova to negotiate the Free Trade Agreement with the European Union. The Competition Law has entered into force in 2012, being elaborated with the support of the EU Delegation in Moldova.

3. The commitments taken by the Competition Council in implementing the regulatory framework of competition and state aid have a direct impact on the lives of Moldovan citizens and have already registered tangible results in preserving and creating new jobs, by ensuring a competitive environment.

4. The regulatory mechanisms, used according to the competition law and the state aid law, promoted by our institution, that have contributed and can further contribute to creating and maintaining jobs are the following:

- a) Preventing and penalizing anticompetitive agreements and abuse of dominance

- b) Liberalizing economic sectors
- c) Monitoring and providing state aid
- d) Controlling mergers

5. **Anticompetitive agreements and abuse of dominance** – here we can emphasize the price fixing arrangements between competitors. A good example is when the Competition Council issued a decision, prohibiting two operators on the cable TV broadcasting market to conduct anticompetitive actions, particularly setting low prices for the purpose of eliminating another economic operator from the market. Based on the decision of the Competition Council, these actions were halted, so that the company has succeeded to carry on, keeping its employees and contributing to a competitive environment that favors development and innovation, in order to create new jobs on the market of cable TV broadcasting services. (The presentation of the case, featuring indicators and conclusions shall be made at the event).

6. **Liberalization** (liberalizing and opening economic sectors to competition). Although the Republic of Moldova has chosen the market economy model after the collapse of USSR in 1991, many defective elements of the planned economy system were inherited in various economic sectors. In Moldova, most of the markets are regulated or even excessively regulated (e.g. oil, insurance, energy, medicines markets, etc.). These excessive regulations limit and reduce competition. Many reforms are to be implemented at national level in accordance with the commitments stipulated in the EU-Moldova Association Agreement. This process takes time and requires a lot of work at national level, as well as well-determined objectives on the government agenda. Liberalizing economic sectors brings more possibilities for the business environment and is directly proportional to the creation of new jobs. The proper implementation of the normative competition framework through reforms of liberalizing economic sectors represents a guarantee for sustainable development of small and medium enterprises and creating new jobs for citizens. The Competition Council, in partnership with the World Bank, has elaborated a market study that provides the prioritization of economic sectors that need to be liberalized and open to competition, under the Second Competitiveness Enhancement Project (CEP-II). We believe that the process of opening these sectors to competition will lead to a positive impact both for intermediate users and final consumers.

7. **Monitoring and providing state aid** By granting preferential treatment to certain economic operators at the expense of others, the normal competitive forces are seriously disrupted. However, in some situations, in accordance with the regulatory framework of the state aid law, some exceptions can be applied, taking into consideration the beneficial impact of a state aid granting scheme. The authorization of state aid needs to be justified, for example, based on the necessary criteria to promote regional development or policies of common interest like environment protection, research and development, education and, of course, the creation of new jobs. In this sense, the Competition Council has authorized 4 state aid measures in 2014 with the objective of regional development, providing the creation of industrial parks, one of the main conditions being the creation of new jobs. For example, the authorization of the state aid for the creation of Edinet Industrial Park. This state aid provides the creation of 2000 direct jobs, the creation of 1100 indirect jobs (i.e. in the services) and the creation of 400-500 jobs for the construction of the industrial park.

8. Another important aspect in avoiding the distortion of competitive environment represents the monitoring of state aid, which has a significant impact and 3 major advantages:

- a) State aid is limited to what is strictly necessary, and thus the waste of public funds is avoided.

- b) Preventing the distortion of competition on the national market boosts the economic growth, as a result, the level of employment grows.
- c) Authorizing only the state aid measures that have a common goal of developing the sectors left behind leads to the promotion of small companies, research and development, education and to the creation of new jobs.

9. In order to monitor the correct implementation of all the state aid in Republic of Moldova, the Competition Council, with the support of the World Bank, has implemented the Electronic Informational Register of Recording and Monitoring State Aid - SIRASM. In this context, the Competition Council has been selected among winners of the 2014 Competition Advocacy Contest, under the thematic category of "Promoting cooperation with relevant public bodies to balance competition goals with other public interests". The contest was organized by the World Bank Group with the aim to raise awareness of the key role of competition agencies in promoting competition and showcase their successful advocacy stories.

10. **Controlling mergers** (for example, a merger between two large groups that will lead to their dominance on the market). The low level of competition culture in Moldova, the economy in transition, the legislation being quite complicated and other subjective factors lead to a high percentage of non-notifications of merger transactions. That is why the competition authority from Moldova is working to detect non-notified mergers that have occurred and have already caused negative effects. These proactive measures of verifying merger processes have the purpose to preserve an efficient competition on the market, considered to be the foundation for a sustainable development, and consequently for preserving stable jobs. In most cases it was proved that mergers can lead to the reduction of employment when they create essential barriers on the market and it can also happen for the merger to impose restructurings and jobs liquidation.

11. In the process of detecting non-notified mergers that were already completed, the Competition Council has the mission to dissolve the merger, so as to restore the situation before the economic concentration entering into force. The process is a complex one and requires a thorough assessment and finding the best solutions, as well as monitoring their implementation.

12. In this presentation I would like to refer to a recent case from 2015 with social impact of classical monopolization on the tourism market. The economic concentration Scavolin LLC on the tourism market was evaluated ex post by the Competition Council, as holding a 60.08% share of the market after the merger. The relevant product market is the market of trading tourism packages to the destination Antalya (Turkey).

13. The Competition Council sanctioned "Scavolin" SRL with a fine of over 21 million lei for the takeover of "Anesto-Tur" SRL, action which constitutes a non-notified merger, conflicting with the competitive environment.

14. At the same time, according to the Decision of the Competition Council Plenum, the concerned undertakings will have to dissolve the merger, so as to restore the situation prior to the implementation of the concentration. As a result, following the merger, the companies from the newly created group (consisting of several companies) achieved a dominant position on the market of tourist packages for the destination „Turkey”, fact that raises significant obstacles for an effective competition on the respective market.

15. Details, analysis with reference to this case, as well as measures taken to improve the situation will be presented in the final work.

16. **In conclusion**, I would like to mention that the effective enforcement of competition policies is the best way to achieve economic freedom. Implementing the competition regulatory framework has an impact not only on the economic environment, but also on the entire society. Thus, the Competition Council is a guarantor for the competition freedom to become a public freedom.