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**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS  
COMPETITION COMMITTEE**

**Competition and Inflation – Note by Romania**

30 November 2022

This document reproduces a written contribution from Romania submitted for Item 12 of the 139th OECD Competition Committee meeting on 29-30 November 2022.

More documents related to this discussion can be found at  
[www.oecd.org/competition/competition-and-inflation.htm](http://www.oecd.org/competition/competition-and-inflation.htm)

Mr Antonio CAPOBIANCO  
[Email: [Antonio.CAPOBIANCO@oecd.org](mailto:Antonio.CAPOBIANCO@oecd.org)]

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## *Romania*

### 1. Interventionist policies and possible negative effects

1. In economic theory, inflation is treated as a macroeconomic problem, on which the most appropriate measures are taken by central banks, through monetary policy, and by governments, through fiscal policy. But recent increases in global inflation have rekindled the **debate on the role of competition policy (an economic policy with rather micro-economic implications) in price dynamics**, amid the link between companies' market power, possible anticompetitive behavior and rising prices in the economy.

2. International cooperation has become more fragile as a result of the perturbation of supply chains during the COVID-19 pandemic, prompting governments to develop new strategies to reduce national dependence on other economies. This forward-looking change, reflecting the emergence of a trend towards protectionism identified in developed economies, can generate negative effects in terms of the competitive environment, thus restricting competitiveness to domestic companies, while motivation to invest in companies' research and development would decrease considerably.

3. **Price caps may lead to shortages** or even the exit of more exposed competitors (e.g. weaker competitors with less bargaining power or efficient competitors with higher consolidated stocks at higher prices).

4. Interventions to cap prices or lowering intervention standards (through competition policy) to penalize excessive pricing **may discourage investments** (which in the long run leads rather to negative effects on the competitive environment) and **decrease the incentive to compete**.

5. **Interventionist policies of states can become excessive**, generating negative effects (e.g. areas that are in a process of liberalization may return to a regulatory route with negative effects over time). From a competitive point of view, the preferred option is that, where and to the extent possible, markets are allowed to self-regulate themselves through their own mechanisms.

6. **The granting of subsidies and even State aid in certain industries may lead to destabilizing/discriminatory effects at a competitive level**. This can be felt at the level of an industry<sup>1</sup>, at the level of production chains<sup>2</sup> or even at the level of countries with different levels of subsidies.

7. The latter point refers to the fact that different levels of subsidies granted by each State may lead to a widening of 'unmerited' differences between global players, depending on their nationality (higher subsidies granted to producers of a particular nationality may give them an advantage on the global stage, or to downstream producers of the same nationality. Such effects may occur in markets that have a global dimension<sup>3</sup> or provide raw material<sup>4</sup> for markets with a global dimension).

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<sup>1</sup> Discrimination between competitors through the level of support.

<sup>2</sup> E.g. certain gaps in bargaining power between trading partners may be exacerbated

<sup>3</sup> E.g. the car manufacturing industry.

<sup>4</sup> E.g. electricity, fuel, etc.

8. Such issues must be discussed at international level, in order not to generate or exacerbate imbalances on the world market that would push states towards protectionist attitudes. It must be acknowledged that the global economy is increasingly interconnected, leading to less effective solutions at national level.

## 2. Competition policy in the context of the inflationary environment

9. Within the current inflationary context, marked by the combination of post-pandemic recovery, the invasion of Ukraine and the overall disruption of global supply chains, the public debate on the effective functioning of competition in the market economy as an anti-inflationary tool has considerably increased.

10. However, this approach can be counterintuitive and counterproductive, as competition authorities would have to shift their attention from the basic mandate<sup>5</sup> in order to act on inflation rates without, however, having the right tools to influence the evolution of prices across the economy.

11. **The aim of the RCC is to maintain a level playing field in the market so that supply and demand mechanisms manifest in price formation.**

12. Starting from the clarifications made in the previous section, we point out some reasons why **the RCC aims to show a cautious attitude regarding intervention initiatives:**

1. Well-managed inflation is a short-term problem, while competition policy offers, rather indirect, long-term solutions.

The pressure on competition authorities to intervene is the result of rather immediate concerns (caused by the temporary price increase). But competition policy can generate positive effects on aggregated indicators (inflation, innovation, interest rates, growth and employment, etc.) rather in the medium and long term and indirectly, while in the short term its effectiveness in the fight against inflation is rather limited.

2. The competition authority must remain within its own margin of intervention in order to be able to exercise its role as protector of the competitive environment in a rational manner.

The main way in which RCC can intervene in the fight against inflation stems from the extent to which price increases are caused by anticompetitive behavior by companies on the market. When a competition authority leaves the normal margin of intervention, it can contribute to the imposition by the Government, for example, of immediate solutions (such as price caps), with significant risks to the evolution of the competitive environment in the medium and long term.

For example, price caps can lead to a reduction in supply, including structurally. The role of the competition authority, according to the Competition Law, is to approve the interventions initiated by the Government in this regard. However, the application of too permissive standards for endorsement of such initiatives would lead to a weakening of a filter of economic reason in a decision-making environment that is deeply sensitized to the social problems caused by inflation.

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<sup>5</sup> such as sanctioning cartels and abuse of a dominant position, controlling mergers and supervising the efficient functioning of markets.

Another example is the legislator's tendency to adjust the legal framework to make direct intervention in the market easier (or even overregulating certain sectors).

The RCC orients its efforts to provide solid, economic arguments to convince on the need for caution in interventions that interfere with natural price formation mechanisms. Distortions of these mechanisms will most often have severe effects on the competitive environment in the medium and long term.

3. The interdependence between the competitive environment and consumer interest works in both directions

The task of a competition authority is to ensure **that a normal competitive environment is maintained for the benefit of consumers**. Similarly, when states, on the basis of the affected interest of consumers, decide to intervene in the economy, they should also take **into account the maintenance of a healthy competitive environment**.

The interdependence between the two objectives (competitive environment and consumer benefit) works in both directions, therefore neglecting the long-term competitive environment will generate a boomerang effect on consumers.

4. Substantiating decisions on sound economic bases, to challenge real causes, where appropriate

Data on price increases over a certain period of time are not in themselves sufficient to prove the existence of an anti-competitive agreement. This is particularly important in an inflationary environment, given that firms face simultaneous increases in costs that generally shift into consumer goods prices.

Therefore, understanding and explaining causal chains is essential. There may be situations where inflation is imported entirely, and in the absence of a thorough objective analysis (which could also involve analyses of profit margins, international comparisons, etc.), the Government could decide to punish players in a given market, although the problem could be generated, for example, from upstream.

In the same line of ideas, it may be appropriate that any government policies (related, for example, to granting subsidies) should be based on the contribution of several institutions (e.g. the competition authority, the regulator on the respective market, etc.), so as to intervene as effectively as possible where it is necessary.

In essence, we are talking about attacking a problem in the wrong market, just because in that market the effect is most visible at the level of consumers.

### 3. Actions of RCC in the current inflationary context:

13. The RCC aims to have a vigilant attitude, in the margins of its own intervention powers, so as to detect possible problems in advance (e.g. price developments on certain products much higher than those recorded on other similar national markets,<sup>6</sup> with the exploration, from a competitive perspective and through specific economic methods of causal elements<sup>7</sup>).

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<sup>6</sup> National markets with comparability, including in terms of structural characteristics and supply chains.

<sup>7</sup> E.g. profit margin tracking may provide indications of speculative behavior or even possible cartelization of players.

14. We point out, below, some actions taken by the RCC:

### 3.1. Price monitoring

15. The task of the competition authority with regard to the optimal functioning of and competition in the retail markets for food products and motor fuels has been and remains focused on two main directions.

- The first of these is the monitoring of the functioning of market mechanisms. This activity has the role of detecting possible irregularities/infringements of the legal regulations, and, if there is conclusive evidence in this regard, to sanction the companies responsible.
- The second line of action of the competition authority aims to stimulate competition in the retail markets for food and fuels, as well as to improve the competitive climate, with a view to achieving an advantage for final consumers.

16. In 2022, the RCC set up a working group **aimed at monitoring the prices of consumer goods and tariffs for consumer services**, analyzing their paces of change compared to the European and regional averages. This analysis process would highlight certain red flags, which the team would analyze further.

17. The main factors that are taken into consideration are:

- legislative or market structure changes;
- analysis of production costs (e.g. evolution of energy costs) and the impact of changes in global commodity prices;
- developments in downstream, upstream and related markets;
- evolution of demand and production.

18. The choice of the markets analyzed by the working group is made both according to the weight of the good in the basket of consumption, but also according to the importance of the good in the national production chains. This approach makes it possible to prioritize analyses based on the potential impact of price increases on the well-being of the final consumer.

19. Also, one of the tools used by the competition authority in market and price screening is the “**Price Monitor**” application. This tool displays prices for about 30,000 food products sold in over 1,700 stores. The app can be accessed across the country from mobile phones, tablets or PCs, and can be downloaded from Google Play and App Store.

20. The “Price Monitor” takes into account the fact that price is not the only criterion for assessing a product, complemented by elements such as: the type and quality of the services available, the quality and quantity of ancillary information available to the consumer, the quality of the product itself, after-sales assistance and, last but not least, the consumer’s decision regarding the origin, brand or presentation of the product.

### 3.2. Big Data Project and Market Analysis

21. In order to meet the challenges posed by the increased development of the business environment, increasing the complexity of the economic activity, as well as the major changes that technological innovations bring about, the RCC implemented, as a user of such solutions, the **project “Optimizing the interaction with the business environment**

**and implementing advanced data analysis and exchange mechanisms by implementing an IT system of e-government and Big Data analysis within the RCC”.**

22. The project, completed in January 2022, had as main objective to streamline the investigative activity of the RCC, using specific Big Data tools and aggregated information/data from internal and external sources.

23. Also, **RCC’s Interoperability Platform, which is now integrated into the Big Data platform** aggregates information from data sources provided by partner institutions such as the National Trade Register Office, the National Authority for Fiscal Administration, the Electronic Public Procurement Service, the National Council for Solving Complaints and the Ministry of Justice, information that is used as such or within the advanced analysis process of the Big Data Platform.

24. Within the Key Sectors Report<sup>8</sup>, an analysis was carried out, for the period 2017-2021, at the level of over 700,000 enterprises in Romania, using data obtained through the Big Data project. The analysis highlighted the general trend of improving profitability and capitalization indicators, indicating an increase in the capacity of Romanian companies to obtain financing. In 2023, this analysis will most likely be continued to assess the profit margins obtained by Romanian companies in 2022, including the breakdown by business domain, so that certain atypical situations can be identified, where a significant part of the price increases have been shifted to higher profits.

### 3.3. Combating exploitative actions in extraordinary contexts

25. The RCC also contributed, together with the Romanian Government and other public authorities, to the **elaboration of legislation on combating exploitative actions of companies on the market in extraordinary and justified contexts** (such as: ”partial or total mobilization of the armed forces and a state of war, a state of siege and a state of emergency, a state of alert or other crisis situations explicitly established by normative acts”). The purpose of completing the legislative framework was to prevent possible crisis situations<sup>9</sup>, shortages or unjustified increases in the prices of products or services considered essential for the health, safety and integrity of consumers in the extraordinary situations expressly provided for in the normative act.

26. In this legal framework, the notion of exploitative risk refers to situations where unjustified price increases may occur or there may be a major imbalance between demand and supply on the market, identified by the National Agency for Fiscal Administration as well as by other public authorities or institutions depending on the area of competence, ex officio or upon referral to representative business or consumer associative structures.

27. Exploitative action are defined, in the normative act, as:

- unreasonably high prices;
- unjustified limitation of production or sales;

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<sup>8</sup> The annual report, published by the Chief Economist Unit, includes analyses of economic and financial indicators characterizing the economy as a whole and studies on specific industries (including the use of an aggregate competitive pressure index, which provides an applicable comparison barometer across more than 40 industries)

<sup>9</sup> The concept of strict necessity is adapted to the specific context. For example, in the case of a medical crisis, such as the one in 2020-2021, the notion of strict necessity also refers to goods necessary to fight the virus, such as: protective equipment, medicines, etc.

- the accumulation of goods on the foreign or domestic market in order to create a deficit on the Romanian market and their subsequent resale at an unjustified increased price.
28. At the same time, the evaluation criteria for establishing the fact of exploitative, within the meaning of this normative act, are also established:
- profit margins or margins for the product or service in question, in order to analyze a disproportionate increase in prices over expenditure; the level of the selling price compared to the prices charged in the last 12 months or, where applicable, for seasonal products/services, in similar periods of the last 3 years, without the differences being objectively justified;
  - artificially increased production costs, including wages, to mask an unjustified increase in the price of the final product or service; the distribution of products through a chain comprising more than usual intermediaries, without undergoing any transformation, with the aim of increasing the price;
  - unjustified limitation of production or sales, which has had the effect of significantly halting/decreasing supply to the internal market in the absence of economic or other factors justifying such a limitation/halting;
  - increase in stocks over a certain period compared to the average level of stocks existing in the last 12 months or, where applicable, for seasonal products/services, in similar periods of the last 3 years, without the differences being objectively justified.
29. Also, in accordance with the clarifications made in the present material, the RCC must remain vigilant and cautious as to how these regulations are applied and draw the alarm signals, where appropriate, in order not to allow the normal functioning of competitive mechanisms to be jeopardized.

### **3.4. The RCC interventions in the context of the measures proposed by the Government**

30. In October 2022, a price cap was introduced for wood materials needed for heating in the cold season. This measure has generated concerns among companies active in this market, and also, the RCC highlighted the risk of shortages in the future.
31. Such a measure aimed to ensure the energy security of the most vulnerable communities could lead to the opposite effect, by affecting the market in general (and, in particular, those players who had already stocked up at higher prices) and decreasing supply, especially in certain lowland areas, far from the wood resources.
32. The RCC anticipated these risks and proposed an alternative solution (by granting vouchers only to vulnerable people), respecting the principle of proportionality in relation to the objective pursued and limited to a certain period, justified by certain exceptional circumstances.
33. With regard to the electricity and natural gas market, the Government developed a draft normative act that provided for measures applicable to final customers in the electricity and natural gas market, between April 1, 2022 and March 31, 2023 ("Draft GEO"), so that the electricity and natural gas prices paid by end customers do not aggravate the level of energy poverty.
34. The RCC made a number of observations regarding certain provisions that could have generated negative effects at the market level. Thus, through the draft GEO:

- - electricity distribution providers/operators that ensure the resale of electricity were to be compensated for the positive difference between the average purchase price and the capped sale price of electricity/natural gas intended for certain categories of customers.

The average purchase price was calculated at the level of each supplier, not determined on the basis of a market average or other reference value. Therefore, the RCC drew attention to the fact that the proposed mechanism would not stimulate suppliers to act prudently and purchase electricity/natural gas at the lowest possible prices, possibly through term contracts. In consequence, they would be compensated regardless of the method of purchase the necessary quantities.

- - Fixed levels of the electricity and/or natural gas supply component were established for the electricity and/or natural gas supply activity, with a certain differentiation in the case of customers taken over as a last resort.

The RCC considered that maximum levels should be set for the supply component to allow more efficient suppliers to apply lower values in order to attract customers to their portfolio.

- - The capping support mechanism was also not to be applied to certain categories of non-household customers and producers.

In this regard, the RCC drew attention to the fact that, in order for a support measure not to constitute state aid, it must be equally and generally applicable to all beneficiaries who are in a de facto and de jure situation comparable and to be granted based on objective and non-discriminatory criteria.

35. The final form of the GEO took into account the comments of the RCC.

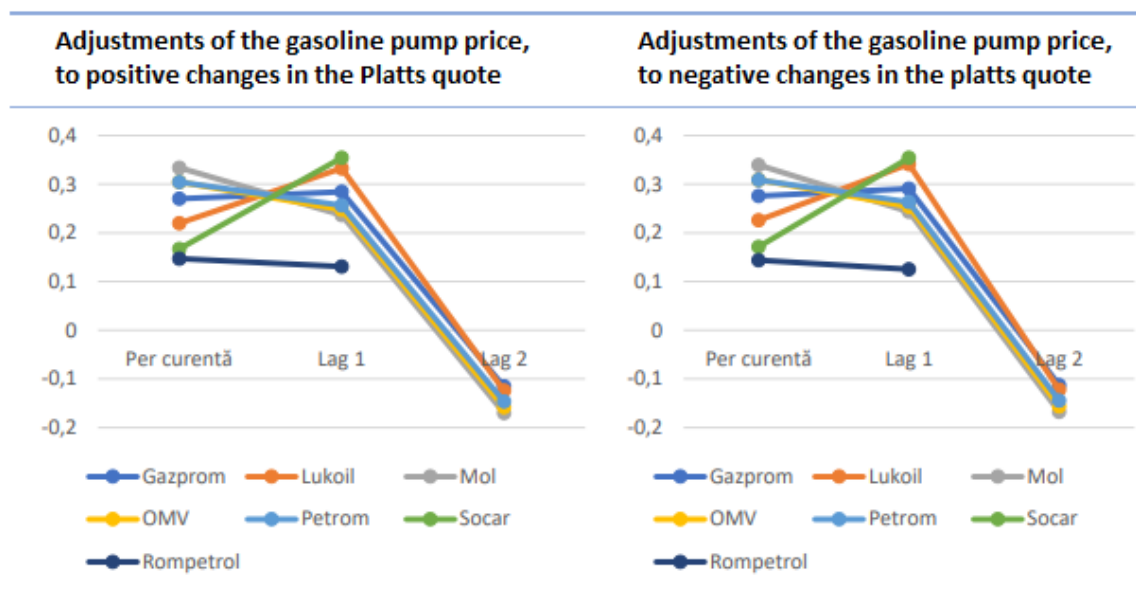
### **3.5. Analysis on analysis of asymmetry/symmetry of transmission in the final price (at pump) of Platts quotation developments**

36. In 2022, the competition authority carried out an analysis, using econometric methods, to determine how Platts quotes are transmitted in the pump price. The analysis was carried out for the period July 2019-June 2022 (including the most important players on the Romanian market), and the results were compared to those obtained from a similar analysis, undertaken between January 2014 and April 2018.

37. The results of the analysis were as follows:

38. On the basis of the aggregated weekly data for both petrol and diesel fuel, in the majority of cases analyzed, the assumption of a **symmetric adjustment of the gasoline pump price according to the evolution of the Platts quotation** was accepted.





39. Compared to the period January 2014 to April 2018, the results of the 2022 analysis, for the period July 2019 to June 2022, indicated that the **symmetry of the pump price adjustment for changes in Platts petrol quotes is much better supported** by both the results of econometric tests and the very small differences in the values of the coefficients related to positive and negative changes in Platts quotes.

40. Therefore, based on the analyses carried out, **no behavioral patterns could be identified suggesting/providing a specific coordination or speculative attitude of the main players**; a certain symmetry was observed in the pump price transmission of positive and negative changes in Platts quotes (including in terms of comparable transmission times of price modifications).

41. However, it should be noted that a comparison with Platts quotes cannot be an exhaustive comparative barometer, so careful monitoring using other parameters and indicators may also be necessary in the future.

### 3.6. The ROBOR investigation

42. In October 2022, the RCC opened an investigation into a possible violation of the Competition Law by commercial banks participating in the establishment of ROBOR/ROBOR reference rates. The investigation concerns the activity of banks on the interbank money market carried out in the framework of the fixing procedure, as well as that carried out in the 15 minutes after the “fixing”, namely the attraction and placement of interbank deposits by the banks participating in the establishment of the ROBOR/ROBOR reference rates at national level.

43. ROBOR is the reference rate of the interbank money market for deposits placed between the ten credit institutions relevant from the point of view of activity on the Romanian interbank money market, selected on the basis of performance criteria established by the National Bank of Romania (NBR).

44. ROBOR is the benchmark interbank money market rate for deposits attracted by banks from other banks participating in transactions in this market. ROBOR is determined in the same fixing procedure together with ROBOR.

45. The potential anti-competitive practice affects the entire territory of Romania, the ROBOR index established by the ten banks being a component of the price (interest rate) for loans in Romanian currency with variable interest granted to individuals before May 2<sup>nd</sup>, 2019 and loans in Romanian currency with variable interest granted to legal entities in all economic sectors.

46. Dawn raids have also been organized during the procedure and the data is currently being processed.

#### 4. Conclusions

47. Global inflation began to rise rapidly with the strong economic recovery recorded in 2021 as more and more countries started to ease restrictions stemming from the Covid-19 pandemic. While for some time the international community had hoped for a temporary nature of inflation, several events<sup>10</sup> in 2021-2022 generated persistent successive effects.

48. Even though the levels of exposure of states to inflationary factors are different<sup>11</sup>, long-term solutions should be discussed and agreed at international level in order to avoid the spread of national issues to the global scene (e.g. by awarding nationality-differentiated subsidies to global players).

49. Also, the pressure exerted on competition authorities to intervene is the result of rather immediate and populist concerns, which can divert competition policy from its role as protector of the normal competitive environment, with potentially serious medium and long-term effects (e.g. regulating some markets, reducing the legal filters for granting forms of support, excessive state intervention in markets that could self-regulate more effectively, etc.).

50. The RCC is very focused on developing its capacity to analyze and monitor price developments and identify their real causes, in order to be able to support the Government in generating appropriate solutions, only when and in the markets on which it is needed, and maintains its attention not so much to the short-term inflation objectives, but especially to those in the medium and long term related to the competitive environment as a whole.

51. The RCC proactively monitors prices, especially on those areas that have an impact on consumers, and assesses, by exploring the causes of suspicious developments, the possibility of problems of a competitive nature justifying direct intervention.

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<sup>10</sup> E.g. the conflict in Ukraine, the increase in container costs (in the context of the closure of the Suez Canal), uncertainties related to the emergence of new pandemic waves, the relaunch of demand after the lifting of the restrictions during the pandemic, etc.

<sup>11</sup> E.g. the economic model, geographical positioning and the level of energy independence generate a significant difference between the US and the bloc of EU Member States.