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Competition and Consumer Policy in Digital Markets – Note by Romania

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Romania

1. Institutional Architecture: A Split Framework

1. Romania's approach to digital market regulation is defined by strict institutional separation. No single authority holds both competition and consumer protection mandates. The Romanian Competition Council (RCC / Consiliul Concurenței) holds exclusive competition law enforcement powers under Law No. 21/1996, as amended by GEO No. 108/2023. It enforces Articles 5 and 6, mirroring TFEU Articles 101 and 102, and serves as the national authority under the P2B Regulation (EU) 2019/1150 and DMA monitoring. Critically, the RCC holds no consumer law powers whatsoever.

2. The National Authority for Consumer Protection (ANPC) is a central public authority subordinated to the Government. It enforces the full body of EU-derived consumer law — including the Omnibus Directive (2019/2161) and the Consumer Rights Directive, through eight regional offices and a nationwide operational network. ANCOM serves as Romania's Digital Services Coordinator under Law No. 50/2024, overseeing DSA compliance for Very Large Online Platforms and Very Large Online Search Engines. The National Cybersecurity Directorate (DNSC) holds no competition or consumer powers but has established informal coordination with the ANPC on digital fraud. The National Authority for Data Protection (ANSPDCP) enforces the GDPR without a formal linkage to either the RCC or ANPC.

3. The primary formal coordination instrument between competition and consumer protection is Order No. 1061/2692/595/2024, which approved an inter-institutional cooperation protocol between the RCC, ANAF, and ANPC. This protocol creates information-sharing channels but falls critically short of establishing joint investigation procedures, co-decision mechanisms, or mandatory cross-referral obligations. As civil society has noted, a common institutional framework for cooperation in implementing digital regulations has yet to be established in Romania. This structural gap is the principal limitation on Romania's capacity to address digital market harms that simultaneously engage both frameworks.

2. The Competition–Consumer Interface: Conduct, Cases, and Structural Inseparability

4. Romania's enforcement record from 2023 to 2025 demonstrates, across multiple active cases and concluded proceedings, that competitive harm and consumer harm in digital markets are structurally inseparable. The following case categories illustrate how the same digital conduct simultaneously engages both legal frameworks, while revealing the institutional gap that currently prevents coherent dual-framework enforcement.

2.1. Self-Preferencing Through Privacy-Branded Design: Apple ATT

5. In October 2023, the RCC opened an investigation into Apple Inc. and Apple Distribution International Limited for possible abuse of dominant position in the iOS mobile advertising market. The theory of harm holds that Apple's App Tracking Transparency (ATT) policy, while publicly presented as a consumer privacy tool, asymmetrically restricts third-party advertisers' access to the IDFA advertising identifier while simultaneously exempting Apple's own advertising systems, thereby foreclosing competition in iOS advertising. This case exemplifies the competition–consumer interface

at its most complex: from a consumer protection standpoint, a consent interface that purports to empower user choice but systematically steers users toward outcomes serving the platform's commercial interest constitutes a manipulative design practice. From a competition standpoint, the identical design architecture operates as a mechanism of competitive self-preferencing. The RCC coordinated its approach with parallel investigations by competition authorities in France, Italy, and Germany. No ANPC consumer law proceeding assessing the same ATT consent architecture was opened, leaving the consumer-facing dimension of the harm outside formal enforcement.

2.2. Platform Exclusivity and Distribution Foreclosure: Sony PlayStation

6. In May 2023, the RCC opened an investigation into Sony Interactive Entertainment Europe Limited for possible abuse of dominant position in the market for video games compatible with PlayStation consoles. The authority's preliminary views indicate that Sony prohibited competing distributors from accessing game activation codes, confining digital game purchases exclusively to the PlayStation Store. Consumer harm (reduced purchasing options and elevated prices for Romanian users) was directly identified in the investigation. Competitive harm (foreclosure of rival digital distributors) formed the legal basis of the proceeding. No ANPC investigation into the same conduct was initiated.

2.3. Resale Price Maintenance in Online Retail: Samsung and eMAG

7. In February 2024, the RCC issued a sanctioning decision against Samsung Electronics Romania (SEROM), Dante International (eMAG), Altex Romania, and Flanco Retail for an anticompetitive vertical agreement fixing resale prices of televisions and mobile phones between 2019 and 2021, imposing combined fines of approximately EUR 24.7 million. This case marked the first significant competition proceeding in Romania expressly involving eMAG, the country's dominant online marketplace. While the RCC's decision explicitly found that consumers paid higher prices as a direct result of the infringement, no ANPC consumer protection proceeding was opened in parallel. Romanian consumers who paid the resulting overcharge have no direct restitution mechanism: competition fines flow to the state budget rather than to affected purchasers. This case illustrates the most financially significant gap between competition enforcement outcomes and consumer welfare in Romania's current legal architecture.

2.4. Digital Distribution in Cultural Markets: Bookster

8. In August 2024, the RCC sanctioned six publishing houses, bookstores, and the Romanian Publishers Association for colluding to restrict Bookster's access to books. Bookster operates as a digital subscription service delivering cultural content through an online platform. The restriction simultaneously constitutes a competition infringement — foreclosing a digital access model — and a consumer protection harm — denying subscribers access to digital cultural goods under valid contracts. The case underscores that the convergence of competition and consumer harm in digital markets is not limited to technology platforms but extends to any digitally-mediated distribution model.

2.5. Dark Patterns and Manipulative Interfaces: Temu and Shein

9. In April 2024, the ANPC opened a control action against Temu and Shein, explicitly identifying manipulative interfaces (dark patterns), pressure-selling, gamification, and inauthentic discounts as the practices under assessment. This represents the most advanced ANPC engagement with behavioural manipulation in digital

environments. The competition dimension — that systematic dark pattern deployment by a dominant non-EU marketplace raises rivals' effective customer acquisition costs, suppresses comparison shopping, and produces conversion advantages unavailable to compliant competitors — was not addressed by the ANPC and was not taken up by the RCC. The European Commission's DSA proceedings against Temu from October 2024 and the EU Consumer Protection Cooperation Network's coordinated action in November 2024 provide a parallel enforcement track, but Romania's domestic framework produced no integrated competition-consumer response.

2.6. Influencer Marketing and Undisclosed Commercial Communications

10. In 2023, the ANPC launched a market surveillance action targeting Romanian influencers' Instagram accounts, assessing whether promotional content was clearly identified as advertising. The action was preventive; no sanctions were imposed. Undisclosed influencer marketing carries a concurrent competition dimension: it artificially depresses the perceived advertising costs of firms that use it relative to competitors using disclosed paid advertising and systematically manipulates consumer decision-making in favour of brands with resources to fund undisclosed campaigns at scale. This dual dimension was not analytically addressed in Romania's enforcement approach.

3. Analytical Interaction Between Frameworks: Allocation and Integration

11. In Romania, the determinant of which framework applies is institutional mandate rather than analytical preference. The RCC cannot apply consumer law; the ANPC cannot apply competition law. When digital conduct generates simultaneous harms, the applicable framework is determined by which authority's evidentiary thresholds are met first or which receives the complaint triggering investigation.

12. The allocation pattern across cases follows a consistent logic: where conduct has a structural market effect — vertical price fixing, platform exclusivity, or self-preferencing — the case is handled under competition law by the RCC, with consumer harm treated as a downstream consequence to be identified but not separately enforced. Where conduct has a primarily transactional character affecting individual consumers without a clear structural market effect (such as disclosure failures, unfair practices by non-EU platform operators) the case falls to the ANPC. No formal priority rule or case allocation protocol between the RCC and ANPC exists for conduct that simultaneously triggers both frameworks.

13. Digital market characteristics exert practical pressure on this allocation even without formally altering it. The speed at which digital harms scale creates urgency to apply whichever framework allows faster action. Consumer law instruments - ANPC commitments and injunctions - can typically be deployed faster than competition law investigations, which require higher evidentiary thresholds for structural harm. The RCC holds interim measures powers under Law No. 21/1996.

14. No full parallel proceeding in which both the RCC and ANPC opened formal investigations into the same digital conduct has been initiated for the period 2020 to 2025. The 2024 inter-institutional protocol creates the legal basis for future coordinated action, but its practical activation in a joint digital market case has not yet occurred. The absence of a formal joint investigation procedure is an area the two authorities may wish to explore further, in light of the cases described above.

15. On the question of competition–consumer objective conflicts, no formally documented collision between the two frameworks has arisen in Romania's digital

enforcement record. The Apple ATT case presents the closest analytical tension: the ATT policy was publicly framed as a privacy-protective consumer benefit, while the RCC's theory of harm holds that the same policy operates as a mechanism of competitive self-preferencing. Resolving this tension requires the enforcing authority to distinguish between genuine consumer benefit and its use as a pretext for anticompetitive conduct — an analysis that underscores the value of integrated analytical dialogue between the two frameworks.

4. Non-Price Parameters, Behavioural Analysis, and Consumer Autonomy in Competition Enforcement

16. Romania's competition enforcement in digital markets reflects a progressive integration of non-price parameters into competitive analysis. This integration is primarily visible in the framing of theories of harm rather than in formally published methodological guidelines.

17. The Apple ATT investigation is the most analytically developed example. The theory of harm is grounded in data access as a competitive parameter: IDFA access is characterized as a critical input for competing advertising technology providers, and its restriction through consent interface design is assessed as the anticompetitive act. This analytical approach requires the authority to evaluate data flows, consent interface design, and technical ecosystem architecture as competition parameters - a significant methodological departure from price-based analysis.

18. In the Vodafone/Telekom Romania merger, conditionally cleared by Decision No. 199 published in October 2025, service quality — including network reliability, coverage, and connection speed — was assessed as a competition parameter sufficient to justify structural and behavioural commitments. Investment obligations on network expansion, coverage thresholds, service quality parameters, and conditions on spectrum allocation were imposed. This remedy package explicitly treats quality degradation risk as a form of competitive harm that merger remedies must address, embedding consumer welfare standards directly into structural conditions.

19. Consumer autonomy in digital choice architecture features implicitly in the RCC's most significant active digital cases. Assessing the ATT consent interface requires the authority to evaluate whether consumers could make genuinely neutral and informed choices about data sharing, or whether interface design choices systematically steered them toward outcomes aligned with Apple's commercial interests. This analysis draws directly on the OECD's work on integrating consumer behaviour insights in competition enforcement and on the concept of dark commercial patterns. However, no standalone methodological guideline on consumer autonomy in competition analysis has been published by the RCC to date.

20. No published standalone behavioural experiment or digital consumer decision-making study has been carried out by either the RCC or ANPC for the period under review. The RCC's 2024 Annual Report documents quantitative consumer impact analysis estimating that the authority's interventions avoided negative price effects on consumers of up to RON 1.3 billion in the baseline scenario — systematic consumer welfare quantification embedded within competition enforcement, though not a behavioural study in the OECD methodological sense. Romania's OECD accession process creates an institutional impetus for developing this analytical capacity.

5. Commitments and Remedies at the Competition–Consumer Interface

21. Romania's commitment practice in digital and digitally-adjacent markets has not yet produced a case in which the RCC explicitly imposed a commitment or a remedy designed to simultaneously address competitive conditions and consumer welfare through design-based interventions, i.e. choice screens, data portability mandates, interoperability obligations, or switching friction reductions.

22. The most developed example of a commitment simultaneously addressing competitive conditions and consumer welfare is the Vodafone/Telekom Romania conditional merger clearance, described above.

23. Regarding market-wide behavioural remedies specifically directed at digital design — such as choice screens or interoperability obligations — no such remedy has been imposed by the RCC in a standalone competition case. The DMA framework provides for such obligations at gatekeeper level, but DMA enforcement authority rests exclusively with the European Commission; the RCC holds monitoring and reporting powers only. Law 414/2023 on representative actions creates a court-based pathway through which consumer organisations could seek orders requiring gatekeeper DMA compliance, including choice screens or interoperability measures. No such action has yet been initiated in Romania, but the legal infrastructure for it exists.

24. As regards consumer redress, competition fines imposed by the RCC flow to the state budget. Consumers who suffered pricing overcharges from infringements have recourse through private follow-on litigation under the transposition of Directive 2014/104/EU. No such litigation in a digital market context has been initiated to date, which reflects both the resource requirements for complex private damages claims and the fact that the most significant RCC digital investigations remain ongoing.

6. Emerging Issues and the Digital Policy Horizon

25. As in other jurisdictions, Romania's regulatory framework is confronting a new generation of digital market conduct that does not map neatly onto existing enforcement categories. Three areas stand out as warranting continued attention and cross-authority dialogue, both domestically and at the EU level.

26. Generative AI interfaces deployed through platforms accessible to Romanian users fall, depending on context, under the EU AI Act, the DMA, and the DSA. The RCC holds DMA monitoring powers, and the broader question of how generative AI deployment may affect competitive dynamics, including search result presentation, recommendation systems, and advertising markets — is a subject the authority is monitoring. The designation of Romania's national competent authority under the AI Act remains pending.

27. Opaque rankings and recommendation algorithms on marketplace platforms present concurrent self-preferencing concerns under competition law and transparency concerns under consumer protection law. The P2B Regulation's transparency obligations, enforced by the RCC, address the business-user dimension, while the ANPC's consumer law mandate covers the consumer-facing side. The ANPC and DNSC's establishment of a joint reporting channel for digital consumer protection on Meta's social media platforms in 2024, covering scams, fraud, gambling, and illegal product sales - is a practical example of the kind of cross-authority cooperation that can address conduct at the interface of multiple frameworks. The RCC has noted this initiative and views it as a useful model for consideration.

28. Across these areas, both the RCC and ANPC have demonstrated institutional willingness to engage with the specificities of digital markets, and Romania has developed specialist expertise — including its cooperation frameworks under the ECN and the DMA High Level Group — that positions it to continue building analytical capacity in line with OECD standards. The OECD accession process itself provides a structured impetus for this development.

7. Institutional Co-operation: Framework and Areas for Development

29. The RCC's active participation in the European Competition Network (ECN), the OECD Competition Committee, and the International Competition Network (ICN) provides an established channel through which analytical developments and good practices from peer jurisdictions, including those where a single authority holds both competition and consumer protection mandates can inform domestic policy positions. The RCC's Consultative Board, which includes representatives of consumer associations, provides an advisory channel through which consumer protection perspectives can inform the RCC's policy positions, complementing the information exchange framework established under the 2024 inter-institutional protocol.

30. The ANPC participates in the EU Consumer Protection Cooperation Network, enabling coordinated action with other EU Member State consumer authorities. Its acceptance as a full member of the International Consumer Protection and Enforcement Network in October 2025 reflects a growing international engagement. Under the DSA implementation framework, ANCOM and ANPC cooperate for conduct constituting both a DSA breach and a consumer law infringement. The RCC is not formally part of this coordination chain, though the 2024 inter-institutional protocol provides a basis for information sharing across the three authorities.

31. Romania's operational record in competition enforcement is strong: the RCC was ranked first in the EU by number of TFEU cases concluded in 2025, with 18 investigations finalised and 21 dawn raids across 52 premises. This reflects a solid institutional foundation. The authority is also actively developing its analytical capabilities in relation to digital market dynamics, including data-driven theories of harm, as evidenced by the Apple ATT and Sony investigations. This trajectory is consistent with the direction set by Romania's OECD accession commitments.

32. Several areas of the framework may warrant further consideration. The transaction-value merger notification threshold - absent under the current rules (meaning that acquisitions of data-rich companies below turnover thresholds are not subject to RCC review) is addressed in the November 2025 draft GEO, which proposes a corrective reform. On cross-border consumer enforcement, the ANPC has noted the limitations of its jurisdiction with respect to purchases from non-EU platforms, a challenge shared by consumer authorities across EU Member States and one that is most effectively addressed at the EU level. On the coordination between competition and consumer protection, the 2024 inter-institutional protocol provides a working basis; whether and how this framework might be developed further is a question that both authorities are in a position to assess in light of their operational experience.

8. Observations and Areas for Further Consideration

33. This contribution has set out Romania's institutional framework, enforcement record, and operational experience in addressing digital market conduct at the competition–

consumer interface. Several observations emerge from this exercise that may be of relevance to the OECD Roundtable's comparative analysis.

34. Romania's enforcement record illustrates that digital conduct frequently generates effects relevant to both competition and consumer protection frameworks simultaneously. The cases reviewed — Apple ATT, Sony PlayStation, Samsung/eMAG, Bookster, Temu and Shein — each demonstrate that competitive and consumer harms in digital markets tend to be intertwined. The current institutional framework, which distributes competence between the RCC and ANPC on a strictly exclusive basis, functions effectively within its respective domains. At the same time, as the case record shows, the absence of a formalized mechanism for cross-authority information exchange and coordination in dual-framework cases means that some dimensions of a given conduct may not be addressed within a single proceeding. This is not unique to Romania: many jurisdictions with split models face similar challenges. It is an area where both authorities may find value in developing their existing cooperation framework further, drawing on the 2024 inter-institutional protocol as a foundation.

35. On the question of remedies and consumer redress: the existing private enforcement framework, through follow-on litigation under Directive 2014/104/EU and representative actions under Law 414/2023, provides legal pathways for consumers affected by competition infringements to seek compensation. The practical take-up of these mechanisms in digital market cases is at an early stage, as in many other jurisdictions, and their development over time will be an important complement to public enforcement outcomes.

36. As regards the adequacy of Romania's bifurcated model for digital market harms: the institutional separation of competition and consumer protection functions reflects a deliberate legislative choice and has proven operationally effective in each authority's core domain. The question of how coordination between the two frameworks can be strengthened, whether through enhanced information-sharing, structured referral mechanisms, or other procedural arrangements, is one that the RCC considers worth exploring in dialogue with the ANPC and within the context of Romania's broader OECD accession process. The RCC does not take into consideration the full merger of the two authorities' mandates at this time; rather, it encourages targeted procedural developments that could help ensure that the existing framework operates as coherently as possible across the competition–consumer boundary.

37. Romania is on a positive trajectory in terms of digital market enforcement, with an active caseload, growing analytical expertise, and institutional engagement at the EU and OECD level. The reforms under discussion create a timely opportunity to reinforce this trajectory. The RCC looks forward to contributing to and benefiting from the comparative insights that the OECD Roundtable process generates.