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

## **Working Party No. 2 on Competition and Regulation**

### **Assessing the Impact of Competition Authorities' Activities – Note by Romania**

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Federica MAIORANO  
Federica.Maiorano@oecd.org

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## Romania

### 1. Methodology and Current Practice

1. RCC's assessment is built on a well-established, conservative framework designed to yield reliable figures while minimizing methodological controversy. Key aspects include:

#### 1.1. Focus on First-Round Effects:

2. Our analysis is confined to the immediate (first-round) effects of anti-competitive practices. Only the direct price increases—those attributable to cartel activity or abuse of dominance—are considered. This focus, which doesn't account for less-certain indirect effects (such as deterrence, spillovers or innovation impacts), ensures that our figures remain robust and less open to dispute. This approach maintains the methodological accessibility of our assessments, as it does not require significant time or resources to implement.

#### 1.2. Defined Cartel Duration and Price Surcharge Assumptions:

3. In line with DG Competition's methodology and the European Commission's framework, we segment cartel cases by the expected persistence of cartel behavior:

- Unsustainable Cartels: expected to persist for 1 year;
- Relatively Durable Cartels: expected to continue for 3 years;
- Very Durable Cartels: hypothetically lasting up to 6 years.

4. To estimate the impact of anti-competitive practices, the Romanian Competition Council utilizes the cumulative turnover achieved in the last year of activity in the affected market by the sanctioned undertakings. Alternatively, a portion of their turnover is considered, depending on the percentage of products or services related to the anti-competitive practice.

5. In the absence of effective data regarding the effect of anti-competitive agreements on prices — a situation commonly encountered in the authority's practice—two systematic price increase assumptions are employed: a minimum of 10% and a maximum of 15%, both applied to the cumulative turnover. Consequently, it is not feasible to compare results based on actual data with those generated through these assumptions, as the estimation consistently relies on these hypothetical thresholds.

6. By applying these values, the estimated impact ranges of the competition authority's intervention are obtained, corresponding to each of the three analyzed temporal scenarios.

7. For each category, price surcharges are set between 10% and 15% (representing the anticipated minimum and maximum price growth rates)—a benchmark applied when detailed price effects data are limited or incomplete.

## 2. Interventions Beyond Quantification: Recognizing the Limits of Current Impact Assessment Frameworks

8. The methodology used to estimate the impact of the RCC inherently has certain limitations. Specifically, the estimated impact value does not fully capture the breadth of the RCC's activities. The current methodology is confined to cases where price increases (observed in cartel cases) serve as relevant indicators for quantifying the benefits of the authority's interventions. Consequently, it is not applicable to all types of interventions undertaken by RCC.

9. Moreover, methodologies applied by the RCC and those recommended by the OECD do not adequately account for practices that influence market dynamics through non-price mechanisms. For instance, interventions aimed at enhancing market access, promoting innovation or improving service quality may not result in immediate or measurable price changes, but they are nonetheless crucial for fostering competitive markets.

### Box 1. Example

In 2020, the Romanian Competition Council (RCC) concluded an investigation into collusive practices in the timber market, revealing that 31 companies had engaged in bid rigging during auctions for timber lots between 2011 and 2016. These companies coordinated their actions by exchanging sensitive commercial information, such as procurement needs and bidding strategies, to divide timber lots and supply sources among themselves. This collusion aimed to suppress competition and secure timber at the lowest possible prices, often to the detriment of state revenues.

As a result, the RCC imposed fines totaling approximately 129.7 million lei (around 26.6 million euros). Notably, 13 companies acknowledged their participation in the anti-competitive practices and received reduced fines.

This case underscores that anti-competitive behavior does not always manifest through direct price increases. Instead, it can involve strategies like bid rigging that distort market dynamics and harm public interests. Consequently, traditional impact assessment methods focusing solely on price differences may not fully capture the extent of harm caused by such practices.

10. Additionally, interventions that support regulatory reforms to enhance market efficiency and consumer welfare often yield benefits that are diffuse and long-term, making them challenging to quantify within existing frameworks focused solely on price effects. These actions, while impactful, are not readily captured by methodologies focused solely on price effects.

11. Therefore, while existing methodologies provide a structured approach to estimating the impact of certain activities undertaken by competition authorities, they do not encompass the full spectrum of interventions. A more comprehensive assessment framework would be necessary to capture the diverse and multifaceted effects of a competition authority's enforcement actions on market competition and consumer welfare.

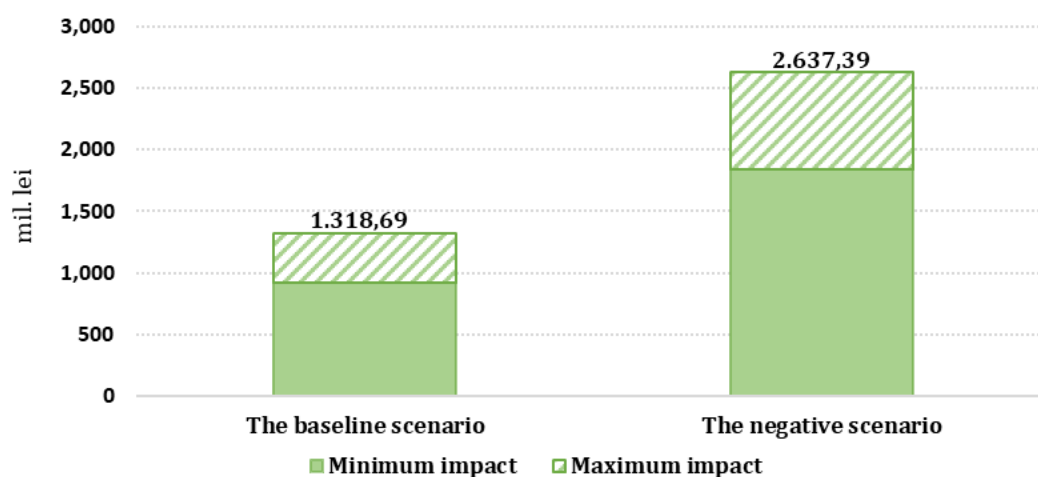
### 3. Empirical Data from Recent Analysis (2024):

12. In our latest review, we applied the European Commission’s methodology to seven markets (cement production, tiotropium pharmaceuticals, peripherals, archiving, dendrofloricultural supplies, mobile IT equipment, food supply in Argeş County). Here, only cases amenable to such treatment were selected. The estimation framework incorporated:

- The size of the affected market (derived from historical turnover data and the proportion of turnover directly linked to the anti-competitive practice);
- A counterfactual scenario assuming continued cartel behavior for either three years (baseline) or six years (negative scenario).

13. The result was a conservative estimate of avoided consumer costs of approximately 1.3 billion lei under the baseline scenario and 2.6 billion lei under the negative scenario.

**Figure 1. The impact of the competition policy – first-round benefits**



### 4. Use and Communication of Impact Assessments

14. The Romanian Competition Council (RCC) conducts an annual assessment of the impact of its activities. The results are published in the Annual Activity Report, which includes a dedicated chapter highlighting the consumer benefits derived from competition policy enforcement. This report is submitted to the President, Parliament and Government, ensuring accountability to the nation's highest institutions. Additionally, it is made publicly available on the RCC's official website, providing accessible information to consumers, economic operators, the media and other interested stakeholders. RCC also holds a public event, inviting the media, people from the business environment, academia and other competition specialists, when publishing its activity report.

15. RCC’s impact assessments play a dual and crucial role:

1. Advocacy and Transparency:

The assessments provide hard evidence to policymakers, consumers and other stakeholders that intervention by RCC delivers concrete financial benefits in the form of reduced

overcharges. By quantifying these benefits—albeit as conservative first-round effects—we affirm the value of proactive competition policy and counteract potential criticisms regarding overestimation.

## 2. Deterrence of Anti-Competitive Behavior:

Public disclosure of these benefit estimates is an effective deterrent. When market players observe that RCC's interventions reliably generate significant consumer savings, the reputational and financial risks associated with anti-competitive practices are heightened, reinforcing market discipline.

16. While our analysis doesn't take into account indirect effects (such as deterrence on non-targeted market players or long-term innovation benefits), we recognize that these factors, if methodologically quantified, could further magnify the overall value of competition interventions.

## 5. Considerations for Future Updates to OECD Guidance

17. Drawing upon our practical experience, we offer some observations that may be beneficial in efforts to enhance tools for assessing the impact of competition authorities' activities. Our aim is to support the refinement of existing methodologies and the development of more comprehensive assessment frameworks. By sharing these perspectives, we hope to contribute constructively to the advancement of effective and nuanced evaluation instruments.

### 5.1. Review of Duration Assumptions:

18. Although categorizing cartels as unsustainable, relatively durable or very durable (with durations of 1, 3 and 6 years) serves as a useful benchmark, our empirical evidence suggests that the persistence of anti-competitive behavior varies across sectors and on a case by case basis. A more nuanced, data-driven categorization would offer a closer approximation to real-world dynamics rather than relying solely on fixed reference values.

### 5.2. Incorporation of Broader Impact Measures and the Risks of Estimating Benefits with Inadequate Tools:

19. While a focus on first-round effects minimizes methodological risk, it is worthwhile to develop methodologies capable of capturing secondary effects—such as deterrence of subsequent anti-competitive conduct and innovation spillovers—in order to provide a more comprehensive view of consumer benefits. However, designing such methodologies presents significant challenges, notably the potential for various estimation biases and errors. In the absence of a broader evaluative approach, there is a risk of underestimating the true impact of competition authorities, thereby introducing an unpredictable element into overall assessments.

20. Furthermore, the quantitative outcomes derived at the level of individual authorities possess limited explanatory power when it comes to reflecting the broader market impact. Comparative analyses are similarly constrained. For instance, an authority that is highly efficient and effective in fostering cumulative deterrence through proactive antitrust measures may, paradoxically, register fewer sanctions than an authority that intervenes less efficiently. Moreover, as an authority's efficiency increases, its interventions may naturally evolve toward more nuanced and subtle measures, which are inherently difficult to quantify within a rigid methodological framework.

21. While a standardized methodology for estimating the impact of competition authorities' activities can facilitate international comparability, it may also lead to unrealistic perceptions and expectations. National markets differ significantly in terms of economic structure, development levels, entrepreneurial culture and degree of voluntary compliance with competition laws. These variations mean that quantitative indicators alone may not accurately reflect institutional efficiency in comparative analyses.

22. This narrow approach to benefit evaluation risks overlooking the long-term, cumulative contributions of competition policy—such as market education and the sustained deterrence of anti-competitive behavior. It may also inadvertently incentivize more interventionist policies, as the more subtle and effective interventions could remain underrepresented in such assessments.

### 5.3. Harmonization and Methodological Flexibility:

23. Moving toward a harmonized framework that accommodates periodic reviews of key assumptions—including adjustments for withdrawn mergers, appeals or commitment measures—can enhance the robustness and international comparability of impact assessments. However, as noted, harmonizing the methodology does not necessarily guarantee real comparability between the outcomes of different authorities, since variations in approach and operational context can significantly influence the reported results.

## 6. Conclusions

24. The Romanian Competition Council remains committed to a conservative and transparent approach in quantifying the direct consumer benefits of its interventions. Our assessments for 2023 and 2024 demonstrate that, even when limited to first-round price effects, RCC's activity has delivered significant avoided costs for consumers—1.3 billion lei in the baseline scenario and up to 2.6 billion lei in a worst-case counterfactual.

25. While our current methodology is relatively fit for purpose, we recognize the value of engaging in further dialogue to refine and expand the OECD guidance. Such enhancements would aim to develop a more comprehensive framework that better captures the full spectrum of competition policy benefits. Importantly, this framework should include clear recommendations that establish both the relevance and the limitations of applying such methodologies, acknowledging the inherent challenges in quantifying certain effects.

26. RCC welcomes continued discussion at the upcoming roundtable and looks forward to contributing to an updated, harmonized methodology that effectively balances methodological rigor with the practical challenges of empirical evaluation.

27. While estimating the impact of a competition authority's activities can be a valuable tool for highlighting the benefits to consumers and the economy as a whole, this process should be approached with caution. The complexities of market dynamics and the limitations of current methodologies call for a careful interpretation of such assessments in order to avoid overestimating their precision or applicability.