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

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ANNUAL REPORT ON COMPETITION POLICY DEVELOPMENTS IN ROMANIA

-- 2005 --

This report is submitted by the Romanian Delegation to the Competition Committee FOR DISCUSSION at its forthcoming meeting to be held on 8-9 June 2006.

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Executive Summary

1. This report addresses the activities undertaken by the RCC and the competition law and policy developments in Romania from January 1 2005 to December 31st 2005. Where possible, later developments have been included and reported on.

2. 2005 was a year that brought Romania closer to the objective of joining the EU on 1st of January, 2007. Both the conviction that a functional market economy cannot exist without ensuring a normal competitive environment and the necessity to observe the commitments of Romania towards the European Union determined the Competition Council to intensify its efforts in order to secure the place of competition on the markets.

3. Thus, we can firmly state that 2005 was a decisive year for the Romanian Competition Authority in both consolidating its decision making independence and raising its credibility among all competition stakeholders (state aid grantors, market regulators, consumer associations, business community, academic environment, the judiciary).

4. Along with its consolidated powers of regulating, investigating, decision making, sanctioning, formulating advisory opinions, recommendations and proposals, RCC's activity aimed at three main objectives in the context of Romania preparation for accession to EU: to continue the strengthening of its administrative capacity, to continue the strengthening of its enforcement record in both competition and state aid field and to further develop its relations with foreign competition authorities and international organisation in order to keep the pace with the latest developments in the competition area.

5. Apart from its general objectives, CC set out as well ambitious specific objectives in both antitrust and state aid fields in order to fulfil its mission of guardian for the proper functioning of the market economy.

6. Romania benefits of a solid administrative capacity in the field of competition. The financial resources allocated to the CC in 2005 increased by over 30% in comparison with 2004, allowing thus a proper and stable functioning of the authority. Currently, its budgetary allocation is with 36% higher than that in 2005.

7. In 2005, the Competition Council focused its activity on a more deterrent sanctioning policy, prosecuting cartels and other restrictive business practices, the total volume of fines applied amounting up to EUR 44,194,989.05. Comparing with the total amount of fines applied by the Competition Council in the previous year, that is an increase of 18 times.

8. Furthermore, in order to rapidly tackle potential infringements of the antitrust rules, the Competition Council opened 16 investigations in 2005, out of which 10 were ex-officio (62%) and performed 4 dawn-raids at 12 premises of various undertakings.

9. Considering its competition advocacy as one of the pillars of a proper enforcement record, RCC focused its activity as well on proactively promoting competition rules so that all parties involved are fully aware of the need to observe the relevant legislation. Also, the Competition Council started to actively advertise its leniency policy so to detect cartels and other restrictive agreements.

10. Exercising its pro-active role in the enforcement of antitrust rules, the RCC can advise on the competition implications of proposed legislation and in this respect it created a Regulatory Impact Assessment (RIA) mechanism within the Inter-ministerial Working Group on Antitrust ensuring thus the prevalence of competition rules over any over normative acts (**an extensive presentation of RIA**

mechanism is made available in chapter III of the present Report). The number of occasions on which it was asked to do so in 2005 was the highest yet. In most instances, its suggestions were taken on board. The competition-proofing of new legislation is an essential ingredient in avoiding laws that increase costs to business and consumers. Thus, Government and other public sector bodies closely cooperate with Romanian Competition authority at the planning stage of new legislation in order to find together ways to achieve policy objectives without distorting competition.

11. Last, but not the least, RCC developed an active participation at international level. In this respect, one of the main achievements of RCC in 2005 was the granting by the OECD Council of the Observer Status to its Competition Committee at the end of 2005. Apart from its close relation with EC, it strengthened its relations with the neighbouring competition authorities. All these offered the necessary premises for accelerating the progresses in the field.

12. To conclude, the outlined results helped Romania to make visible progress on the ground. As a result, competition is no longer seen as a red flag in the monitoring report of the European Commission.

13. In this context, the Competition policy remains to play a central role in the framework of the domestic economic policy in Romania.

1. Changes to competition laws and policies, proposed or adopted

1.1 Summary of new legal provisions of competition law and related legislation

14. The legislative framework in the competition field is essential for developing the market economy, for strengthening the private sector as an engine of growth and development and for prohibiting any restrictive practices by undertakings, which may be shaped as agreements or abuse of dominant position.

15. The Romanian legal framework in the antitrust and state aid field is fully in line with the relevant Community legislation. However, the Competition Council closely examines the legal developments that take place at EU level so to ensure a prompt transposition of any new element of the *acquis communautaire*.

16. As concerns Competition Law no.21/1996 and Law no.143/1999 on State aid, both administrated by RCC, after consecutive amendments in 2003 and 2004, the renumbered texts of these Laws were published in the Official Gazette no. 742, respectively no. 744 of 16th August 2005.

1.2 Other relevant measures, including new guidelines

17. By transposing into the secondary legislation of several regulations issued in application of the Regulation no. 1/2003 of the European Council and of other regulations, the Competition Council adopted and published in the Official Journal of Romania in 2005 the following regulations and guidelines in the antitrust field:

- Guidelines on the application of Article 5(2) of the Competition Law 21/1996 (art. 81 (3) of EC Treaty), published in OJ no. 598/11.07.2005;
- Guidelines on informal guidelines relating to novel questions concerning Articles 5 and 6 of the Competition Law 21/1996 that arise in individual cases (guidance letters), published in OJ no. 356/27.04.2005;

- Guidelines on the handling of complaints by the Competition Council under the Articles 5 and 6 of the Competition Law no 21/1996, published in OJ no. 472/03.06.2005;
- Regulation on the application of Article 5 of the Competition Law to categories of technology transfer agreements; (The Regulation on the exemption of technology transfer agreements from the application of article 5(1) of the Competition Law no. 21/1996, published in the OJ no. 429/20.05.2005);
- Guidelines on the application of Article 5 of the Competition Law no.21/1996 to categories of technology transfer agreements, published in OJ no.659/25.07.05
- Guidelines completing the Guidelines for setting fines imposed pursuant to Article 56 of the Competition Law no 21/1996, published in OJ no. 409/16.05.2005.

1.3 Government proposals for new legislation

18. The legislation in force in competition and State aid field gives the Competition Council enhanced powers so that it may oppose any legislation containing provisions that infringe the competition and State aid rules.

19. To sum up, the Competition Council acts like a real enforcer: assents all new proposals, rejects unlawful measures, supports the line ministries in defining the sectoral State aid policies and advocates the competition culture. Furthermore, it takes part in Government meetings as a watchdog with regard to transposing the competition acquis.

20. While the RCC continues to deal with a full caseload of competition issues arising from the existing stock of regulation, there is, of course, also a regular flow of proposals for new legislation.

21. In accordance with the competences conferred by law and its pro-active approach in the enforcement of antitrust rules, the CC regularly advises Government Departments and other public sector authorities on the effect on competition, if any, of new policy proposals under consideration. In doing so, the RCC seeks to highlight competition concerns and pre-empt any negative consequences for consumers that newly framed policies might (inadvertently or otherwise) bring.

22. In 2005, RCC responded to such requests for advice from Government Departments and other public sector bodies, in the form of meetings (for instance, by setting up the Inter-ministerial Working Group on Antitrust), written comments or a combination of both. The number of requests of Ministries for binding opinions and points of view on various draft normative acts increased due to the use of the Regulatory Impact Assessment (RIA) mechanism within the Inter-ministerial Working Group on Antitrust. The aim of RIA was to ensure the prevalence of competition rules over any other normative acts.

23. Accordingly, in the reported period, RCC issued 9 binding opinions and 9 points of view. Furthermore, it identified provisions with anti-competitive character in 15 normative acts, and intervened with motivated proposals for the elimination of such provisions.

24. Some of the main interventions referred to:

- **Modifying the Governmental Ordinance on Public Procurement** - as a result, a new Law on public procurement is now drafted, in accordance with the provisions of the Competition Law;

- **Modifying the Governmental Ordinance no. 34/2005** on the denomination of the National Houses Agency for carrying out the construction and/or rehabilitation works of the houses in the affected areas. The Competition Council imposed a competitive method for the selection of the company/companies that should perform construction and rehabilitation works in the affected areas;
- **Modifying the draft Law on pharmacies** – as a result, the initiator blocked the draft law for further assessment. The intervention of the Competition Council consisted in requesting the initiator to remove from the draft Law the provisions establishing the demographic criteria and those that re-inserted the territorial criteria for setting up new pharmacies. The Competition Council further requested the exclusion of the provisions linking the ownership of a pharmacy to the exercise of the pharmacist profession. Also, the competition authority requested the elimination of those provisions prohibiting medical producers, importers or distributors to trade their products through their own pharmacies. The Competition Council made public its position since the aforesaid draft was published on the web site of the Ministry of Health.
- **Modifying and completing the Law no.571/2003 on the Fiscal Code** – As a result of the Competition Council's intervention, the draft modifying the Law no.571/2003 on the Fiscal Code was no longer promoted. The intervention to the Ministry of Public Finance consisting in requesting the elimination of the provisions establishing a minimum price for alcohol. These provisions were included in the draft act modifying Law no.571/2003 on the Fiscal Code. The Competition Council acted pro-actively, explaining that the introduction of a minimum price represents an anticompetitive measure. Consequently, it presented and sustained its point of view within several meetings with the legislator, namely the Ministry of Public Finance, as well as during the meetings of Inter-ministerial working group on competition. In this way, the competition by prices would have been removed, violating thus the basic rules of a market economy according to which the level of the prices is determined based on offer and demand, without any intervention from the State;
- Eliminating from the Fiscal Code of the provisions on the incentive related to the exemption from payment of the wage income tax granted to IT operators. This incentive is incompatible with the state aid rules as it creates a real advantage to the undertakings operating in the IT field, by means of decreasing their salary expenses.
- **Modifying the Government Ordinance no.15/2002 concerning the tax on the use of national roads.** Following the Competition Council's intervention to the Ministry of Transport, Construction and Tourism, the initiator repealed the discrimination set in the draft Law, related to the value of the tax to be paid by Romanian drivers as compared to foreign ones.
- **Modifying the Law no.38/2003 on taxi and renting transport** with a view to eliminating its anticompetitive legal provisions related to the administrative fixing of the number of taxi authorisations, the fixing of the minimum and maximum level of the tariffs and the assistance of specific professional associations in fixing that level of the tariffs. The Ministry of Administrative and Internal Affairs assimilated the Competition Council's points of view on these aspects, which were subsequently submitted to the Government.
- **Modifying the Emergency Government Ordinance no.69/1998** regarding the regulatory framework of the gambling sector. RCC's intervention consisted in eliminating the provisions creating the conditions for distortion of competition on the gambling market,

through the advantages offered to the National Company “Romanian Lottery”. The RCC’s position was that the application by the national regulatory authority in the field, namely the Ministry of Public Finance of an equal treatment for all operators in an open and competitive market is required. Thus, the Ministry of Public Finance drafted a normative act on gambling which is to regulate more clearly this sector.

- **Modifying the regulations on the way of organisation and functioning of the liberal professions** such as lawyers, authorised and expert accountants, etc. In this respect, RCC succeeded to eliminate those restrictions considered groundless, for instance the fixing of the minimum/maximum or reference thresholds of the tariffs/honorarium, the fixing of the number of practitioners on the market and those regarding the advertising.

2. Enforcement of competition laws and policies

2.1 *Actions against anticompetitive practices, including agreements and abuses of dominant positions*

25. In 2005, RCC focused its resources on the prevention of the most serious distortions of competition through:

- a better use of its investigative tools, in particular ex-officio investigations, dawn raids;
- the enforcement of a deterrent sanctioning policy;
- adoption and promotion of a leniency programme in Romania;

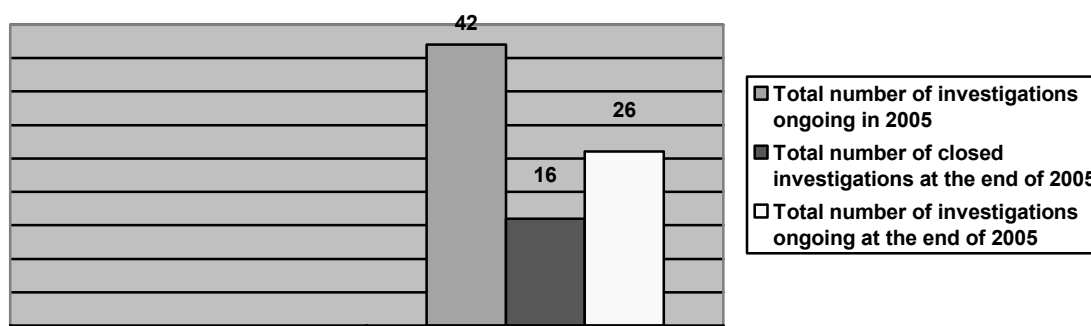
Investigative tools

26. During the period 1 January 2005 – 31 December 2005, 42 investigations were ongoing (21 ex-officio and 21 following intimations), out of which:

- 16 investigations were opened in 2005, out of which 10 ex-officio investigations and 6 investigations following some complaints, intimations and request of undertakings.
- 26 investigations from the previous years that were on going at the beginning of 2005, out of which there were 21 investigations from 2004.

27. Until the end of 2005, the number of closed investigations increased to 16 cases (one case for which investigation was opened in 2005 and 15 cases for which investigations were opened in the previous years) as follows:

- in 5 cases, sanctioning decisions have been issued for the infringement of competition provisions (Article 5);
- in 1 case, a negative clearance decision has been issued;
- 10 investigations have been closed for not leading to anticompetitive facts;

Fig.1 – Investigations carried out in 2005

28. Comparing with the total number of investigations closed in 2004 (12), one can notice that the increase is of 33%. Currently, out of the 26 ongoing investigations at the end of 2005, 9 investigations are currently in final stage and they are about to be closed.

29. The CC's more active presence on the market materialised in opening in 2005, a number of 10 ex-officio investigations and finalising 7 ex-officio investigations initiated in previous years. A high percentage of the ex-officio investigations were opened in the essential sectors such as energy, transport, construction, steel industry, communication and information technology, mechanical engineering, tourism, banking, insurance, pharmaceutical, postal services, media, real estate transactions.

30. In the pro-active approach of the market, the Competition Council used more frequently the "dawn raid" tool, a legal procedure, which is provided in the Competition Law. Within the ongoing investigations, 4 dawn raids were carried out at 12 premises of various companies, as follows:

- at the premises of SC Pronto Universal SRL Tg. Mures, investigation on the self care products market – Colgate Palmolive Romania SRL case;
- at the premises of National Association of Dental Technicians, investigation on an alleged infringement of the provisions of art. 5 of the Competition Law by fixing and publishing the reference tariffs for their services;
- at the premises of Wrigley Romania Produce Zaharoase SRL, investigation on the chewing gum market regarding an alleged infringement of art. 6 of the Competition Law by Wrigley Romania Produce Zaharoase SRL by abusing of its dominant position and of art. 5(1) by Wrigley Romania Produce Zaharoase SRL and its contract partners. The investigation was also based on proves provided by Wrigley to request compliance with the provisions of art. 5 (2) of the Law for an individual exemption of the distribution contracts of Wrigley products from the provisions of art. 5(1);
- at the premises of Unilever South Central Europe SRL and of its distributors, investigation conducted on the laundry detergents market and on the foods market and opened following the Unilever request for granting an individual exemption for its distribution agreements.

A more deterrent sanctioning policy

31. The fines imposed by the RCC in 2005 amounted up to 159,7 mil RON (around EURO 45 million). This figure represents a historical record for the RCC and it is 18 times the amount of the fines applied in the previous year.

32. The increase in the fines is attributable basically to the new, more severe approach of the Competition Council according to which a systematic and conscious fining policy was elaborated and put into practice during the year. The higher overall amount of fines can partly be attributed to the fact that more hardcore cartels were discovered than in previous years.

33. The sanctions' structure is the following one:

- for substantial infringements of the competition provisions (Article 5) sanctions in amount of EURO 39,821,538.5 have been imposed.
- for procedural infringements of the competition provisions, such as failure to notify an economic concentration, failure to comply with the conditions imposed through a decision, sanctions in amount of EURO 4.373.450,55 have been imposed.

34. It is notable the fact that the tightening up of the sanctioning policy relied also on the improvement of the legal reasoning and on dealing with cases of severe distortion of competition. Thus, investigations like that on the cement market or on "Colgate" case have been successfully finalised by imposing fines representing significant percentage of the total turnover of the involved parties.

35. In order to concentrate the resources on the most important distortions of competition, under the Twinning Project the following working documents were elaborated in 2005:

- Note on how to detect anticompetitive practices and conduct dawn-raids;

This document describes all the investigation tools in the hands of the competition experts in order to discover anticompetitive practices (market monitoring, market studies, requests of information, dawn raids, anonymous complaints and direct contacts) and includes practical guidance for the use of each of these instruments. The aim of the guidelines is to enhance the ability of the Competition Council to discover and sanction, through ex-officio investigations, anticompetitive practices.

- *Guidelines for a most pro-active approach of the competition enforcement record;*

This document refers to general criteria which must be followed by the Competition Council when decides to open an ex officio investigation regarding an alleged infringement of the competition rules.

- Lists of sectors essential for the Romanian economy from the competition point of view (An extensive presentation of this document is presented in chapter V of the present Report);
- *Matrix on the basis of which priority cases, likely to distort the competition, are selected.*

The adoption and promotion of the leniency policy

36. Detecting cartels represents the zero priority for the RCC. In this way it supports a viable economic development and helps to new jobs creation.

37. Leniency policy, as an instrument for fighting cartels, is an important part of the Romanian competition legislation. In 2004, through the Order no. 93/2004, the conditions and application criteria of a leniency policy pursuant to the provisions of article 56(2) of the Competition Law, with subsequent amendments and completions, have been put into practice.

38. In order to promote the leniency policy, the Competition Council has initiated a large promoting campaign: "Promoting of the leniency policy within the business environment". The campaign presents in an attractive way (guidelines, leaflets) details concerning the procedure to be followed by the undertakings, which, although having had resorted to anticompetitive agreements, are willing to come forward to the Competition Council and to disclose evidence on the respective practice, obtaining in exchange leniency as regards the amount of fine.

a) *Summary of activities of competition authorities:*

Table 1: Statistics of total antitrust activities of RCC in 2005

Total competition activities		
	Decisions reached	New cases opened
Total number of cases	157	161
- Restrictive agreements	14	4 (investigations)
- Abuse of dominance	5	2 (investigations)
- Mergers	115	129 + 2 investigations
- General competition provisions		5 investigations
- Sector investigations		13 ⁰
- Other (please specify)	23	19
- actions of public bodies	1	2 (investigations)
- non-fulfilment of the conditions imposed	1	
- waiver request	2	
- notification failure	19	17
Restrictive agreements (Art. 81 EC)		
	Horizontal agreements	Vertical agreements
New cases opened	2 (investigations)	2 (investigations)
-New notifications/applications	0	2
-New own initiative procedures	2	0
-New complaints	0	0
Decisions reached	5	8
-Rejection of complaint decisions	1	3
-Negative clearance decisions	0	4
-Exemption decisions	0	0
-Prohibition decisions	0	0
-Prohibition with fines decisions ¹	3	1
-Amount of fines ¹	EUR 34,473,207.46	EUR 5,541,784.02
-Administrative closure of procedure ²	1+ 3 ³	3 ³
Court rulings	3	1
Abuse of dominant position (Art. 82 EC)		
New cases	3 (investigations)	
-New own initiative procedures	1	
-New complaints	2	
-New applications (neg. clearance)	0	

Abuse of dominant position (Art. 82 EC) (cont'd)	
Decisions reached	6
-Rejection of complaint decisions	3
-Negative clearance decisions	0
-Prohibition decisions	0
-Prohibition with fines decisions ¹	0
-Amount of fines ¹	0
-Administrative closure of procedure ²	3
Court rulings	2
Merger cases	
Decisions reached	115
-Approvals	95
-Conditional approvals	0
-Prohibitions	0
-Administrative closure of procedure	20 negative clearance decisions +1 ³
Court rulings	14

⁰ This is not added to total cases in 2005

¹ This refers to fines for substantive infringements, not to fines for procedural infringements

² This refers to closure of the proceedings without an assessment on substance (e.g. for reasons such as lack of competence);

³ This refers to orders for closure of investigations that revealed no anticompetitive practices

Restrictive agreements

39. For improving the enforcement process of the provisions of the Competition Law, the Competition Council intensified the activities consisting in monitoring and surveillance of the behaviour of undertakings acting on the Romanian market, in order to detect alleged anticompetitive acts and practices. Through these interventions, the CC had in view to re-establish and maintain a normal competitive environment.

40. As shown in the above Table 1, in 2005, 14 decisions were made on restrictions of competition out of which 4 decisions represented as well sanctioning decisions in cartel cases having as an object the concerted fixing of prices/tariffs. The total amount of the fines applied for sanctioning cartels in 2005 of EURO 39,821,538.5 represents 91% of the total amount of fines applied by the Competition Council in 2005, respectively EURO 44,194,989.05, proving thus the determination of Competition Council to enforce a more deterring sanctioning policy. In comparison with the fines applied in the previous year (almost Euro 1.3 million), one can note that the amount of fines applied by the Competition Council for the sanctioning of cartels increased in 2005 by nearly 30 times.

41. The most deterrent fine ever applied by the Competition Council (almost 26 million Euro) sanctioned three cement producers for a cartel practice; Note should be made that in the cement case, all three producers paid the fines imposed by the Competition Council. Furthermore, it must be underlined that, following the decision made by the Competition Council, the prices on this market fell by 6% even if the sector of construction materials had an upward trend.

Abuse of dominant position (Art. 82 EC)

42. As shown in the above Table 1, for solving the cases regarding the possible violation of art. 6 of the Competition Law, 6 decisions were adopted in 2005.

43. In 2005, 9 investigations having as object the potential infringement of the provisions of article 6 on abuse of dominant position were carried out.

44. Out of these, 2 ex-officio investigations were opened on the following markets:

- Sand quartz market;
- the railway transport services market and auxiliary services for railway transport market.

The other 7 investigations were opened following formal complaints.

45. By the end of 2005, 3 investigations were closed by means of decisions of the Competition Council Plenum, as follows:

- the investigation on the market of services in the field of natural gas (decision of refuse of the complaint);
- the investigation opened on the market of personal care products following the complaint against Colgate Palmolive România SRL București (decision of refuse of the complaint as well as establishing the guiltiness and sanctioning the parties involved in the agreement) ;
- the investigation opened on the chewing gum market following the complaint against Wrigley (closed through decisions of sanctioning the parties involved on the basis of article 5 and refuse of the complaint on article 6);

46. Furthermore, three rejections of complaint decisions were issued following the assessment of the complaints submitted to the Competition Council having as object the potential infringement of the provisions of article 6 on the basis of the impossibility of proving the object of the complaint.

b) Description of significant cases, including those with international implications.

47. Cases on restrictive agreements - art. 5 (art.81 of EC Treaty)

The Colgate Palmolive Case

The relevant market was the market of chemical products for domestic care, products for oral use and self care products.

Following the investigation, the following were established:

Infringement of the provisions of article 5 alin (1) let a) of the Competition Law, by:

- indirect fixing of the minimum sale price, on the basis of vertical agreements between the CPR supplier and the other undertakings, among which the plaintiff, Prestige Trading SRL;
- horizontal agreements among Colgate products distributors, representing cartels of indirect fixing of the minimum sale price;

No evidence could be brought in support of the infringement of article 6 of the Law;

The notified contracts for individual exemption did not observe the exemption conditions provisioned by art.5 alin.(2) but favoured the infringement of the provisions of art.5 alin.(1), this leading to the refuse of individual exemption.

The undertakings parties to this agreement were sanctioned with fine for contravention, the total fines amounting to RON 15 million.

The Cement Case

The investigation was initiated by the Romanian competition authority in March, 2001 as a result of its own intimation regarding, among others, the significant and simultaneous increase of cement's prices, operated on the specific market by the local cement producers.

The investigated undertakings were SC Lafarge Romcim SA (belonging to Lafarge French Group), SC Holcim Romania SA (member of Swiss Group Holcim) and SC Carpatcement Holding SA (belonging to German Group Heidelbergcement). Each of them controlled three homogenous spread cement plants. This indicates an oligopoly market structure, favourable to anti-competitive practices forbidden by the Romanian Competition Law. Entry barriers on the market are very high.

At the end of the administrative procedure, the Competition Council Plenum issued the decision no. 94/26.05.2005 finding that 3 undertakings infringed art. 5 (1) of the Competition Law no. 21/1996, by participating in a price fixing cartel on the Romanian cement market.

The decision stipulated as follows:

1. For the infringement of Article 5(1)(a) of the Romanian Competition Law, the three undertakings were sanctioned with fines as follows:

Lafarge Romcim – 6.5% of the turnover achieved in 2004 amounting to approx. EURO 10,424,955;

Holcim Romania – 5.5% of the turnover achieved in 2004 amounting to approx. EURO 8,015,385;

Carpatcement Holding – 6.0% of the turnover achieved in 2004 amounting to approx. EURO 8,655,787.

The total amount of the fines applied in this case was of 98,050,045, 294 RON, around 26 million EURO, the fines being representing 5.5%- 6.5% of the turnover of the involved undertakings.

2. Corrective steps:

- the annulment of the "Cement" Committee within the Cement Professional Association CIROM in order to stop the possibility of concluding collusive agreements;
- the monthly submission by each producers, for a period of 2 years, of the cement prices for the prior month, mentioning: the assortment and the net ex-work price.

The anticompetitive behaviour of the investigated companies, members of the groups which operate too on the Romanian cement market, in other countries offers a clear clue on the fact that the reiteration of this kind of behaviour is possible and it even occurred on the Romanian market.

The Wrigley Case

The investigation was initiated in 2004 by RCC, following Wrigley Romania's request for individual exemption for its 15 distribution agreements from the provisions of art.5(1) of the Competition Law (art.81(1) from EC Treaty), and as a result of a complaint against Wrigley Romania from Interbrands - a former distributor of Wrigley Romania-claiming that Wrigley abused of its dominant position.

From the investigation resulted that Wrigley and its distributors concertedly fixed the resale prices for Wrigley products. This was accomplished directly, in a contractual clause regarding prices, and indirectly by fixing the level of discounts, through a very strict sales policy, rigorously established. Also, the incumbents were dividing the markets and allocating customers. This led to a complete elimination of the competition between distributors and an artificially increased price for the end-user.

The RCC Plenum found that the incumbents infringed art.5 (1) let.a) and c) of the Competition Law, and sanctioned them with a fine of approx. 5.5 million EURO (20 million RON).

Wrigley's request for individual exemption for its distribution agreements was denied, since the exemption criteria provided by law were not fulfilled. Moreover, these contracts were actually infringing the law, as shown above. The Competition Council imposed on Wrigley the interdiction to recommend the resale price, even if the recommendation regarded the maximum level of the resale price.

The Plenum decided against the abuse of dominance accusation brought on Wrigley by the complainant Interbrands, since the investigation showed that there were sufficient viable alternatives to market Wrigley products. However, Competition Council recommended Wrigley Romania or any other company designated by the latter to cease concluding exclusivity agreements for Wrigley chewing gum, related to maximum visibility areas, in particular cash registers, in any commercial area. The measure aims at granting access to impulse areas to all undertakings.

2.2 *Mergers and acquisitions*

a) *Legislative framework*

48. Romanian control of mergers and acquisitions is regulated by the Law No. 21/1996, recently republished in the Official Gazette no. 742/2005. In 2004, significant amendments entered into force in order to bring Romanian competition law in line with EC competition rules.

49. A major task of the Competition Council is securing the competitive environment by exercising the greatest vigilance on large mergers. In the light of the Competition Law, mergers are illegal when having the effect of creating or consolidating a dominant position, lead to or are likely to lead to a significant restriction, prevention or distortion of competition on the Romanian market or on a part of it.

50. The merger control rules contained in the Competition Law are detailed and expanded through secondary legislation, in regulations and guidelines.

b) *Statistics on mergers and acquisitions*

51. The considerable decrease of the decisions number issued in 2005 of 115 in comparison with the decisions number recorded in 2004 of 165 and in 2003 of 247 as concerns economic concentrations is due to both the reduction of the number of economic concentrations operations carried out in the privatisation process and the progressive augmentation of the turnover threshold. As shown in the above Table 1, out of the total number of 115 decisions reached in 2005, 20 represented negative clearance decisions and 95 represented non-objection decisions (approvals).

52. The Guidelines on remedies acceptable in cases of conditional authorisation of certain economic concentrations of 29 March 2004 describes both the structural and behavioural remedies such as divestments, removal of existing exclusive agreements, access to the necessary infrastructure or key technologies, price reporting obligations and mechanisms designed to prevent customer discrimination.

53. It is important to point out that failure to implement the remedies, to which the parties committed themselves, may result in the revocation of the clearance, 'suspension' of the economic concentration and imposition of fines.

54. Thus, recently, the Competition Council succeeded for the first time in its activity in imposing fines for failure to observe the conditions and other obligations imposed through a conditioned authorisation decision of an economic concentration on the cement market. In this respect, the amount of fines reached 1,457,342 EURO (5,273,540.15 RON). Apart from this, Competition Council strictly monitors the implementation of both structural and behavioural remedies imposed in merger cases.

55. Furthermore, for failure to notify an economic concentration action, the CC imposed increasing fines which in 2005 amounted to 2,916,108.55 EURO (10,329,239.50 RON).

c) *Description of significant cases.*

Economic concentration - SC Azomures SA and SC Chimpex SA Constanta

In 2005, for the first time in its activity, RCC started an ex-officio investigation for the alleged infringement of art.12¹ of the Competition Law, republished.

The investigation started from the alleged consolidating of a dominant position by S.C. Azomures S.A. who acquired the control over SC Chimpex SA Constanta. The economic concentration between the two incumbents, **Azomureş SA and SC Chimpex SA Constanţa**, might have led to a severe distortion of the competition of the market of harbour services. It has to be noted that the operation was not notified to the Competition Council. Therefore, Azomureş was sanctioned with the highest sanction ever applied to an undertaking for failure to notify, in a total amount of approx. 1.5 million EURO (5.3 million RON).

The profound analysis regarding the compatibility of this acquisition with a normal competitive environment took into consideration the following elements: the economic concentration resulted into a vertical integration; the two undertakings involved in the operation hold substantial positions on the markets they operate; when the investigation was opened, Azomures held joint control with other shareholders over SC Transocep Terminal SA as well, controlling therefore a specific segment of the market.

Since Azomureş took upon itself the obligation to sell the shares in Transocep, the competitive environment was restored. As a result, RCC authorised the economic concentration, by issuing a non-objection decision.

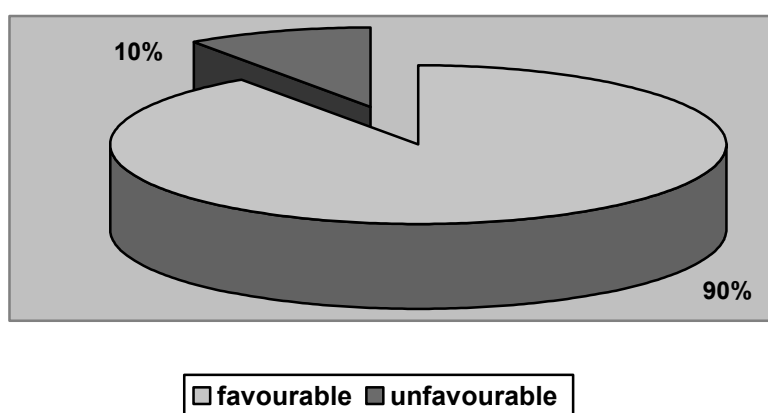
2.3 Judicial review of RCC decisions in 2005

56. In 2005, RCC had locus standing, active or passive, in 113 court files in which were challenged administrative acts issued by the competition authority both on the anti-trust and state aid (58 court files are on the acts issued in the last years).

57. A number of 24 decisions issued by RCC in 2005 were challenged in court, as well as 2 letters informing the complaining parties that the antitrust law is not applicable on the matters in question and 1 verbatim record (record of proceeding/minute) sanctioning the complainant for supplying incorrect information. On the acts mentioned above, in 2005, 54 court file were on the merits of the cases.

58. Out of total files having as an object decisions issued by the competition authority, 30 files were irrevocably solved during January – December 2005. Out of these files, 27 files were solved in the favour of the Competition Council, representing 90% of total files solved.

¹ "Economic concentrations are illegal which, having the effect of creating or consolidating a dominant position, lead to or are likely to lead to a significant restriction, prevention or distortion of competition on the Romanian market or on a part of it."

Figure 2: Files irrevocably solved in 2005

59. Also, out of the irrevocably solved files by the High Court of Cassation and Justice in 2005, 13 had as an object decisions on the infringement of art. 5(1) of the Competition Law no. 21/1996, respectively:

- 2 decisions issued in 2005;
- 1 decision issued in 2004;
- 4 decisions issued in 2003;
- 3 decisions issued in 2002.

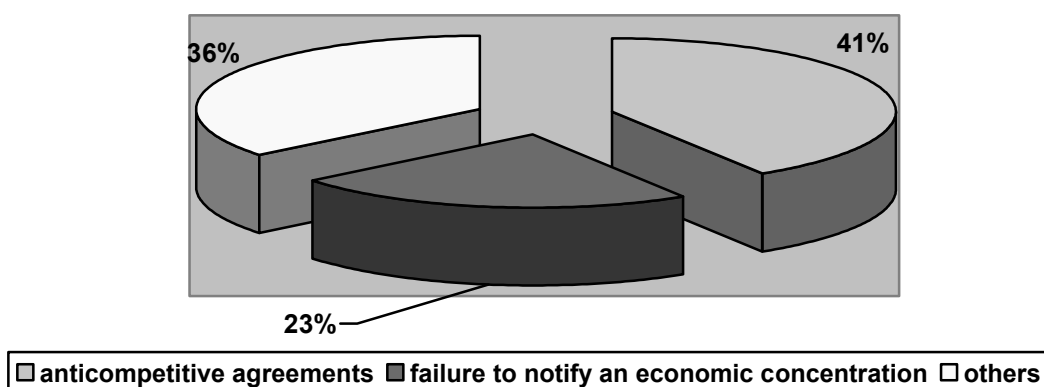
60. Out of those 13 files, favourable outcomes for the competition authority were ruled in 12 files, being maintained as legal and well-reasoned the decisions issued by the authority.

61. Another 8 files had as object decisions of the competition authority through which it was found and sanctioned the failure to notify of the economic concentrations, respectively:

- 1 decision issued in 2005;
- 6 decisions issued in 2004;
- 1 decision issued in 2003.

62. Out of these 8 irrevocable outcomes ruled by the courts, 7 have been in favour of the Competition Council.

63. The rest of the irrevocably solved files had as object, inter alia, decisions of the competition authority through which there were rejected complaints since it were not enough grounded to justify the opening the investigation, as well as fact findings minutes imposing fines for failure to submit information or submitting incorrect and incomplete information.

Figure 3: Object of files solved

64. The following examples illustrate the way the courts saw their role in this field:

The Meal Tickets Case

By decision no. 270/29.09.2004, the Competition Council Plenum had found that 8 undertakings issuing meal tickets were infringing art. 5 (1) (a) of the Competition Law no. 21/1996 by concertedly fixing the minimum fee perceived from the employers that were beneficiaries of the tickets. The total amount of fines applied in this case is of 4,706,684.9 RON, approx. 1,352,379 EURO.

The meal tickets market is a partially regulated market, the Ministry of Public Finance having certain regulation attributions, not applicable to the fee, representing the service price which the issuing undertakings of the meal tickets perceive from the employers. The meal tickets issuers had manifested their discontent towards the Ministry regarding the legislation in this field and consequently they were invited to debate in view of making new proposals to improve the legislative framework. Over a two months period, the undertakings repeatedly met and discussed several matters which required amendments; during these meetings the proposal regarding fixing the minimum fee level came up.

The proposal regarding the fee initially belonged only to 3 undertakings; by the end of the meetings held at the headquarters of the Ministry of Public Finance, all 8 undertakings agreed to practice the same minimum fee level of 2%. This agreement was mentioned in the minute of the meeting held at the Ministry of Public Finance.

The agreement concluded by the 8 undertakings was not put into practice because, subsequent to the mass-media coverage of the issue, the Competition Council stated that such agreement falls under the provisions of art.5(1) of Competition Law.

6 of the 8 undertakings involved had contested in Court the Competition Council's decision. As first instance, the Bucharest Court of Appeal had ruled in 5 out of 6 files and maintained the Competition Council's decision. All these cases were appealed. At present, the review court, the High Court of Cassation and Justice, has ruled in 3 files by maintaining the judgment of the first instance as well as of the Competition Council's decision.

In its judgment, the Bucharest Court of Appeal underlined that the minute shows the undertakings' concurrence of wills concerning the minimum fee fixing, representing an express agreement of undertakings having as object distortion of competition in the meaning of art.5(1) of Competition Law.

Thus, the court noted that the role and involvement of the Ministry of Public Finance does not exonerate the undertakings of their actions, because the Ministry's attributions are exercised in the limits of their legal framework and are related only to the regulated part of the meal ticket market, not applicable on the fee. The Court showed that the involved parties were aware of the commercial agreement they concluded having as object profit maximisation, and that the Ministry of Public Finance had no jurisdiction to apply sanctions if the undertakings involved did not observe the minimum level of fee, influencing thus the conclusion of agreement, such as the incumbents had sustained in their defence.

The Cement Case - (case presented extensively above in par. 46)

Out of the 3 sanctioned undertakings, only SC Carpatcement Holding SA and Lafarge Romcim SA contested in the Court the Competition Council's decision; later Lafarge withdrew its action. The fact that one of 3 undertakings

sanctioned in the Cement file did not appeal the sanctioning decision and another one withdrew its action represents recognition of the fact that the conclusions of the Competition Council decision were well founded. The Carpatcement file is still pending at the Bucharest Court of Appeal.

The Real Estate Agencies Case

The Central Council of the National Union of Real Estate Agencies adopted a decision having as object to strengthen the reference fee of 3%+VAT and establishment of a minimum fee of 2%+VAT on the real estate market for undertakings that offer real estate services at professional certificated standards. By the Plenum Decision, the Competition Council noted that the Central Council's decision represents an anticompetitive practice distorting the competitive environment, prohibited by the art. 5(1)(a) of the Competition Law. The 7 subsidiaries of NUREA (UNIM) parties to the agreement were sanctioned with a total fine of 7,556.4 RON, approx. EURO 2,171.

The Competition Council's Decision was appealed by NUREA (UNIM) and its 7 subsidiaries before the competent court, respectively the Bucharest Court of Appeal claiming by a joint action the annulment of the administrative act issued by the competition authority.

The Court rejected the annulment action, maintaining the decision as legal and well-grounded and noted that the Competition Council fairly sanctioned the fee fixing agreement, respectively the reference fee and the minimum fee that were meant to be applied by the agencies operating on the relevant market, respectively real estate transaction intermediation services market. Even if this agreement was not put in practice, it had as object a horizontal restriction of the competition. Thus, the court noted that for the infringement of art.5 (1) (a) is not necessary for the agreement to produce effects, and the fact that it was not put in practice could be considered by the competition authority as mitigating circumstances, as it did in its decision.

The decision pronounced by the Bucharest Court of Appeal (in October 2005) was not appealed at the High Court of Cassation and Justice. Consequently, the judgment of the Bucharest Court of Appeal remained irrevocable.

3. The role of RCC in the formulation and implementation of other policies, e.g. regulatory reform, trade and industrial policies

65. Competition policy encompasses economic regulation, privatisation, antitrust laws and international trade. The application of these policies, and the interface between these and other related policies have a significant bearing on industrial structure, business behaviour and, consequently, on economic performance. It may also foster more flexible and dynamic environments that enable countries to respond more effectively to changing market conditions.

66. The main objective of the competition authority is ensuring the economic efficiency and, to this end, this purpose is given primary attention. Restoring the governance of competition and free prices in highly regulated sectors, as well as consumer protection against abusive prices, represent a difficult task, to be achieved through specific expertise and knowledge.

67. Therefore, the Competition Council ensures the implementation of Competition Law, while the regulating authorities have as main responsibility the implementation of specific economic and technical regulations. Its actions are focused on maintaining and stimulating competition as economic process, rather than on the individual monitoring of competitors.

68. To this end, the following actions were taken:

- a member of the Competition Council's Plenum takes part in the preparatory meetings of the Government on a weekly basis, in order to debate draft normative acts, containing potential anticompetitive provisions or State aid measures;
- meetings are organised within the Inter-ministerial Working Groups on Competition and State aid issues;

- a CC representative participates in the Executive Committee on EU Integration, chaired by the Prime Minister;
- a CC representative participates in the reunions of the Inter-ministerial Committee on competition policy organised by the Romanian Government;
- specialised meetings are organised with the representatives of the ministries/authorities having attributions in competition and State aid area;

69. The relations between the Competition Council and the regulating authorities take either the form of cooperation agreements - having as purpose the prevention and limitation of distorting agreements on these markets, monitoring activities, raising economic agents' awareness regarding the measures in case of infringement of Competition Law, cooperation on competition sensitive issues - or of cooperation by means of participation in the Inter-ministerial Competition Working Group.

3.1 Cooperation agreements

70. With a view to improve the co-operation with the Regulatory Authorities, the Competition Council has concluded Collaboration Protocols with the following authorities: the National Regulatory Authority in the field of Communications, the National Regulatory Authority in the field of Energy, the National Regulatory Authority in the field of Natural Gas, the National Regulatory Authority for Public Municipal Services, the National Securities and Exchange Commission and the Insurance Supervisory Commission.

71. The co-operation between the Competition Council and the Regulatory Authorities aims to:

- avoid both positive (when both institutions consider that falls within their competence to settle the respective matter/complaint) and negative (when both institutions consider that falls outside their competence to settle the respective matter/complaint) conflicts of competence, by identifying those criteria that differentiate the scope of each institution's competences.
- co-operate with a view to prevent and discourage the anticompetitive practices on the regulated markets or on a substantial part of them.
- perform market surveys;
- inform the business environment upon the consequences of breaking the provisions of the Competition Law;
- have reciprocal conferences, held both at administrative and experts level, having as object sensitive competitive aspects;
- organise meetings to exchange information, discuss and propose settlements on specific markets.

Public utilities

72. With a view to enforce the competition in the field of public municipal utilities, the Competition Council participated in November 2005 to the National Conference of the Sanitation Operators, organised by the Romanian Sanitation Association in collaboration with the National Regulatory Authority for Public Municipal Services, with which the Council had concluded a Protocol in 2005.

73. The main objectives of CC participation were to promote the competition rules among the sanitation operators and also to identify the competition concerns that may occur in carrying out their activity. In this respect, the Competition Council's representatives presented the anticompetitive practices forbidden by the Competition Law and the consequences of breaking the competition rules.

74. The Competition Council tried to draw the attention of the public administration representatives by focusing on the anticompetitive practices that the public authorities could carry out, as well as on the legal instruments the Competition Council could use in its relationships with the local or central public authorities.

Energy

75. In November 2005, DG COMP presented the first conclusions based on the investigation on the energy sector. These conclusions have been included in the Report on the functioning of Internal Market of natural gas and electricity and confirm the suspicions rose by the functioning of this marker sector.

76. In the context of setting up a single energy market at European level and having in mind the Romania's integration to the EU, the Competition Council started debates at national level on similar competition issues to those that the Internal Market on gas and electricity is facing.

3.2 *Inter-Ministerial Working Group*

77. Set up in 2004, at the initiative of Competition Council, the Inter-Ministerial Working Group on competition issues was created in order to promote competition in all sectors and to ensure the prevalence of the competition legislation over the other normative acts. Within the Group, the institutions involved are represented at the level of Secretary of State.

78. It is an unincorporated body, which works besides the Competition Council and whose permanent members are: Competition Council, Ministry of Economy and Commerce, Romanian Presidency, The Prime Minister, Ministry of Justice, Ministry of Public Finance, Ministry of Communications and Information Technology, Ministry of Transport, Constructions and Tourism, Ministry of Environment and Waters Management, Ministry of Health, Ministry of Education and Research, Ministry of European Integration, Ministry of Agriculture, Forests and Rural Development, Ministry of Administration and Internal Affairs.

79. The meetings of the Inter-Ministerial Group are held on a monthly basis. Depending on the subject approached, representatives of other public administration authorities, organisations and non-governmental associations, representatives of entrepreneurs, manufacturers or other undertakings could participate as guests in its reunions.

80. The main working instrument, on a practical level, within the Inter-Ministerial group, is the Regulatory Impact Assessment, which ensures that the decision-making process is based on clear and accurate information regarding the costs and benefits of the regulation, with a view to identify and prevent in due time any distortive consequences of the regulating process.

81. Thus, in order to create and institutionalise a system of ex ante consultations with the competition authority and to ensure its functioning on permanent basis, a specialised unit has been established. The task of the unit is to apply the RIA techniques; it is made up by the representatives appointed by each ministry, which are responsible for the implementation of RIA.

82. In order to better understand the RIA mechanism, the representatives of the Competition Council and the PHARE experts – members of the Twinning Project, Antitrust component – jointly organised in

September 2005 a new training session for the appointed representatives of the ministries, responsible for implementation of RIA mechanism.

83. The usage of RIA mechanism has evidently influenced the activity of the ministries; thus, in the referred period 9 binding opinions and 9 points of view on draft normative acts or normative acts already in force were formally requested.

84. The RCC was also involved in issuing binding opinions (11) and points of view (9) requested based on the State Aid Law no.143/1999.

85. Some of the topics approached during the reported period within the Inter-Ministerial Working Group were the following:

- **Public procurements** – the analysis, from the perspective of competition rules, of the specific regulations issued by the ministries in this field and of the Competition Council's proposals for amending the Emergency Ordinance no. 60/2001 regulating the public contracts, with amendments. It must be mentioned the fact that, in autumn 2005, the National Authority for Regulation and Monitoring Public Procurement was set up. It is an independent institution which will observe the public procurement market; thus, the necessary framework for the improvement of public procurement sector has been created;
- **Liberal professions** – the analysis of the Competition Council's proposals for amending the specific legislation which contains provisions with an anticompetitive impact;
- **Professional association** – possible instruments for resorting to anticompetitive practices;
- Measures of the **central and local public authorities** that may have anticompetitive effects;
- Standardisation and regulatory **entry barriers**;
- **Policies regarding sectors** – subject to cooperation between the ministries and the Competition Council;
- **The application of the Competition Law** to those cases where public authorities operate on the market as undertakings;
- **The observance of the Competition Law** by the ministries when they issue regulations.
- **The undertakings where the State is represented by ministries**; the role of the ministries' representatives in the management of these companies;

86. Within the Inter-Ministerial Group, the Competition Council has a pro-active approach vis-à-vis the public institutions and the market and addresses proposals, recommendations and tasks to the other members of the Group. On their turn, the representatives of the ministries submit to the competition authority their standpoints regarding competition issues they deal with in enforcing the legislation specific to their sector.

87. **In 2005, the Competition Council paid a special attention to liberal professions.** Since 2000, the Competition Council has started to analyse the incidence of competition legislation upon certain regulations on liberal professions and has directly contacted the public authorities involved (the

Government and the ministries of resort) and the professional associations on this issue. Since then, based on efforts carried out, the Competition Council succeeded to eliminate the limits within which the fees imposed by lawyers and authorised and expert accountants had had to fluctuate.

88. In the last period, the assessment of normative acts in this field has continued; this aspect was also raised within the Inter-ministerial Working Group and since the beginning of 2005 is permanently on the agenda of the Group. Afterwards, all competition problems identified in the normative acts regulating liberal professions have been signalled back to the Government. These aspects refer to: the establishment of minimum, maximum or reference thresholds of the tariffs, of the number of practitioners on the market, of the offices, pharmacies etc., based on geographical and demographic criteria, restrictions regarding the advertising.

89. The professional associations were also asked to state their position vis-à-vis the comments and proposals of the competition authority, in order to find solutions to cut off the restrictions. Direct consultations have been already initiated with some of these associations. In several cases the position of Romanian associations is aligned to that of similar European association (in which the former are observers); consequently, their margin of negotiation is significantly reduced. Nevertheless, all the involved parties are open towards dialogue and cooperation, with a view to find the best solutions able to satisfy both the interests of profession and those of consumers and also to observe the competition rules.

4. Competition Council's resources

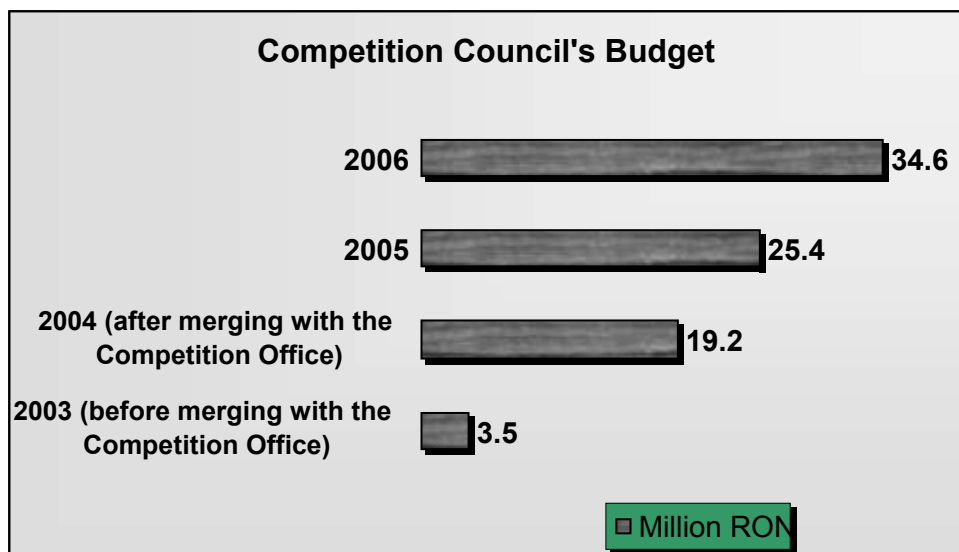
4.1 Adequate financial resources

90. In order to further strengthen the Competition Council's administrative capacity and reduce the personnel turnover, the 2004 amendments of the Competition Law considerably increased the salaries of the specialised personnel. As a result, the salaries of the competition inspectors are 3 times higher than the average salary of Romanian civil servants.

91. Moreover, the financial resources allocated to the Competition Council in 2005 increased by over 30% in comparison with 2004 allowing a proper and stable functioning of the authority. Furthermore, the new State Budget adopted by the Parliament provides for another increase of 36% in the Competition Council financial resources in 2006 as compared to 2005.

92. As shown in the chart below, the Competition Council's budget for 2005 was of RON 25.4 million (approx. EUR 7.25 million)

Fig.4: RCC budget evolution



4.2 *Number of jobs*

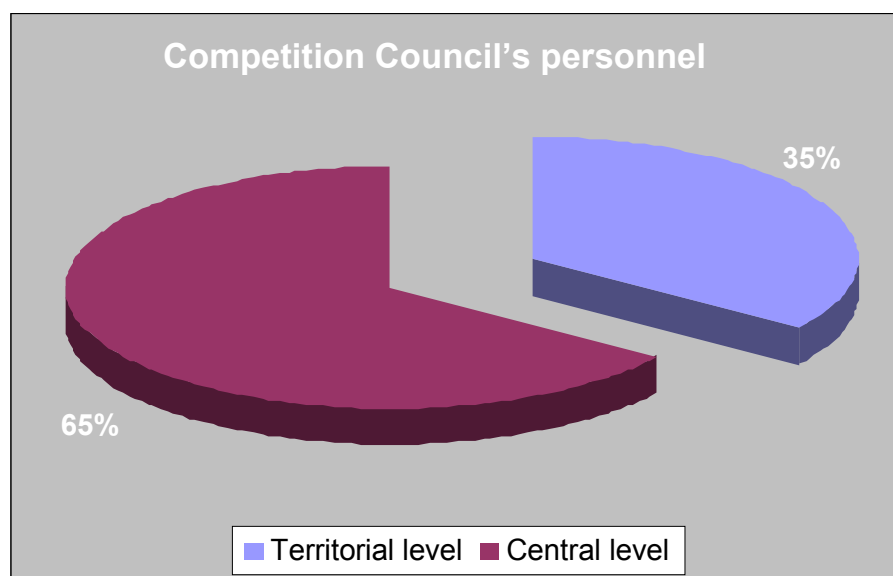
93. Since the autumn of 2004, four sessions for recruiting new personnel were organised. The recruitment process was completely transparent as the contest announcement and all the information necessary were available on the Competition Council's website and published in the Official Gazette in accordance with the relevant legislative requirements. The new 47 competition inspectors, required to fill in the vacant jobs of the Competition Council, were employed after a strict selection based on professional skills, IT knowledge and foreign languages proficiency.

94. As the Competition Council became a well-known and respected institution, working in the Romanian competition authority has become more attractive. Due to the increase of salaries the fluctuation of staff has been significantly reduced. In this context, when recruiting contests are organised, the Competition Council receives from well qualified candidates more than 15 applications per published vacancy.

95. The total number of employees at December 31st 2005 was of 267 persons, out of which:

- economists 160
- lawyers 36
- engineers 34
- non-University graduates 37

96. The Competition Council has a central unit and 41 territorial inspectorates, one for each of the 41 Romanian counties. The territorial staff represents approx. 35% of total staff.

Fig.5: Structure of RCC staff

97. Also, in order to strictly observe all requirements resulted from the accession negotiations, the State aid activity carried out by the Competition Council is very demanding and requires an important volume of resources. Therefore, 70% of the staff from the territorial competition inspectorates and 40% from the staff at central level have attributions in the State aid field.

98. The Antitrust Department of the Competition Council has three Directorates - Consumer Goods, Industry & Energy, Services, with a total staff of approx. 50 persons.

99. The Competition Council also has three specialised Directorates - Legal, International Relations and Research & Synthesis - which apart from their specific tasks, that include advocacy, collaborate with the case-handlers on different issues. These directorates have approx. 40 persons in staff.

5. Summaries of references to new reports and studies on competition policy issues

100. The European Commission's 2004 Regular Report on Romania's progress towards accession states that "concerning antitrust, the Competition Council should concentrate on preventing serious distortions of competition".

101. In order to address this recommendation, the Competition Council – based on an initiative of the "Competition Component" of Twinning Project RO/02/IB/FI/02 - elaborated a study - "List of sectors essential for the Romanian economy from the competition point of view" (mentioned also in chapter II of this report) - and a set of "Guidelines for a more pro-active approach in the enforcement of competition rules".

102. This study contains an analysis of the essential sectors where preserving a fair competition must be considered of utmost importance for Romania's economy. The list of sectors is not exhaustive. Other sectors relevant for Romanian economy may be included in the future. These sectors have been identified based on the European Union liberalisation policies and agreed by the European experts.

103. These sectors are as follows: energy, transport, construction, steel industry, communication and information technology, mechanical engineering, tourism, banking, insurance, pharmaceutical, postal services, media, real estate transactions. Out of these, communication and information technology, media,

transport, energy, banking, insurance and construction were considered key sectors, by Order of the RCC President, issued at the beginning of 2005.

104. For each of these sectors, the survey includes an analysis of the structure of the market and the existing market players. It also includes a review of the general competition issues that the Competition Council is likely to face for each of these sectors. At present, the surveys are updated with relevant information available for 2005.

105. The Competition Council continued in 2005 to raise awareness of the role of competition in general terms. Through public speeches and by making presentations at conferences, Members of the Plenum and CC staff participated at the advocacy campaign and continued to draw attention to identified specific problem areas.

106. Transparency and public awareness constitute important weapons in the hands of competition authorities in order to persuade firms as well as public entities to fully comply with market rules. A business community responsive to antitrust and state aid rules represents an important priority so that Romanian undertakings get acquainted with an environment similar to the European Union's. In this respect, the Competition Council issues an Annual Report and publishes a quarterly newsletter "Profile: Competition", distributed to the interested communities. This newsletter contains various studies and reports on competition issues, elaborated by RCC antitrust experts.

107. During 2005, 3 articles regarding competition policy issues in Romania were published in the "Parliament Magazine", publication working at the heart of the EU that examines key policy debates.

List of publications:

- *The list of sectors essential for the Romanian economy from the competition point of view* - www.consiliulconcurrentei.ro;
- *Guidelines for a most pro-active approach of the competition enforcement record* - www.consiliulconcurrentei.ro;
- *"Romanian Competition Council: an active national and international player"*, by Mihai Berinde, President of the Romanian Competition Council - December 2005, Political Guide of the Parliament Magazine;
- *"Romanian Competition Council on the Path of accession"*, by Mihai Berinde, President of the Romanian Competition Council - "The Parliament Magazine" - April 2005;
- *« Towards a single goal: accession in 2007 »* by Mihai Berinde, President of the Romanian Competition Council - "The Parliament Magazine" - July 2005;
- *Competition Council's Contribution* - 4th issue of Competition and Antitrust Review, publication edited by Euromoney Yearbooks - November 2005