

Competition Law in Context - How Can It Be of Use to Your Business?

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Legislative framework

- Coherent set of competition rules
 - Restrictive agreements
 - Abuse of dominant position
 - Merger control
 - (State aid)
- Alignement of domestic rules with the acquis
 - Stabilisation and Association Agreement
 - Quasi-direct application of EC rules

Why is it important to align your competition rules with the acquis?

- Investors profit from legal certainty
- Well-developed body of EC law
- Level playing field
- Three key elements:
 - Institutional framework
 - Legislative framework
 - Enforcement

Enforcement of competition rules

- It takes time for vigorous enforcement to gain momentum
- Necessary to define and focus on enforcement priorities
- Active enforcement opens up business opportunities

How does it affect your business?

- It is in the best interest of firms to have vigorous enforcement, or is it?
 - Price-fixing cartels – aim to stabilise the market
 - Croatian examples: demining industry, bus companies, trade associations
- Cartels allow for extra-profits to be gained but they stifle competition
 - Consumers suffer because of higher prices
 - Some firms may not have incentives to participate in the collusive scheme – they want to compete and are “punished” by the colluding firms

How does it affect your business?

- Abuse of dominant position allows the dominant firm to reap extra-profits but what about its competitors?
 - Exclusionary practices aimed at disciplining or excluding competitors from the market
 - Croatian examples:
 - Newspaper industry (24sata/Tisak/Distri-Press)
 - Retail industry?

How does it affect your business

- Merger control
 - Ex-ante control aimed at regulating prospective market structure
 - Competitiveness of firms - competitive market structure
- Croatian examples:
 - Privatisation
 - Industry (vertical) consolidation

What have we learned?

- Firms need competition rules to be able to act against anticompetitive behaviour of their competitors and other undertakings
 - Croatian examples:
 - Vertical agreements in distribution of motor vehicles
 - Abuse of dominance in newspaper industry
- If properly enforced, competition rules elevate the general level of competitiveness of firms active on the market
- In an open market, potential competition may act as a corrective force on a “stabilised” market
- Vigorous competition on the market has obvious benefits for consumers
 - Croatian example: mobile telephony market

Challenges for the future

- Fight against cartels has to be recognised as enforcement priority
- Responsiveness of competition authorities to firms' claims of anticompetitive conduct has to be improved
 - HR capacities in need of strengthening
- Role and importance of competition rules has to be promoted (competition advocacy)
- Competition compliance
- However, “soft approach” may prove to be counterproductive
- Fines, fines, fines...