

ASSESSING THE EFFECTIVENESS OF EU COMPETITION POLICY DURING THE ECONOMIC CRISIS

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Abstract:

In the current economic context marked by deep economic and political changes determined mainly by the challenges launched by economic and financial crisis, the EU is designing a new model of competition policy that focuses on a set of coordinated group actions to ensure transparency and a level playing field both for countries and companies operating within the Single Market. The regulatory and institutional framework modernization requires an assessment of EU competition policy enforcement. Using the WEF's effectiveness of anti-monopoly policy index and the EBDR's competition policy index this paper highlights some disparities between EU's member states regarding the perceived effectiveness of competition policy implementation and the quality of actions undertaken to protect competition.

Key words: competition policy, effectiveness, economic crisis

JEL Classification: F15, L40

1. Introduction

For European competition policy, assessing the effectiveness of its enforcements turned out to be a problematic issue. Thus, it has proved to be difficult to assess whether the objectives were properly defined and subsequently the extent to which these objectives were achieved, whether the institutional and legal framework were well chosen and ultimately whether the actions of competition authorities produced the desired outcome as long as the performances of these institutions are not evaluated in one way or another. In certain circumstances, this evaluation process proved to be a dense process marked by dominant logic changes.

As empirical research provides relatively diversified alternatives in terms of evaluating the effectiveness of competition policy implementation, whether taking in consideration, depending on the case, the output of national competition agencies activity or the perception of the business environment, for EU and its new priorities is important to quantify the real contribution of each sectorial policies, and implicitly, of competition policy, to consumer welfare and thus to total welfare increase. In this assessment process it should be taken into consideration that this transversal policy is not only one with deep economic determinants, and economic spillover effects, but also it has social and political implications which makes the evaluation process much more difficult.

If from a social perspective, competition policy implementation means more wealth for individuals, in terms of politics, it is limited to the government's commitment to provide freedom to economic actors to compete and to protect consumers from powerful companies' abuse.

A competition policy adapted to the current conditions of the European business environment and connected to the development expectations of the European Union should be an integrated part of the necessary toolkit to achieve the Europe 2020's aspirations, namely to ensure economic growth that is simultaneously smart, sustainable

and socially inclusive and also characterized by high levels of employment, productivity and social cohesion. Functional and undistorted competition can contribute to these key objectives.

These economic, political and social aspects of competition policy require a multidimensional approach to evaluating the results of its implementation in each Member State and to the group as a whole.

Competition authorities are becoming more aware of the impact of this complex transversal policy on consumer. In this context, they prove to be increasingly more enthusiastic to declare and prove the significant role they have in consumers' lives by implementing competition legislation. The European Commission isn't an exception from this new trend, its self-declared mission being to protect competition on the market as a measure to increase consumer welfare and to ensure an efficient allocation of resources. However, it is difficult to measure to what extent the Commission and the national competition authorities influence into practice consumer welfare or total welfare.

Sometimes such effects are immediate and measurable, but often they are difficult to quantify and the only way to protect the long-term consumer welfare is to protect the competition process itself and thus dynamic markets. In this context designing a new EU competition policy mission seems justified.

The main priority of this new competition policy model has to be represented by improving market functionality both for consumers and companies operating in the EU economic area. It also requires formulating objectives that can be measured periodically through a series of assessment tools, which could lead to an increased efficiency of competition policy implementation by reference to the level of achievement of objectives.

According to Philip Lowe, the former Director General for Competition, this performance measurement process should be carried out and monitored taking into account three dimensions. (Lowe, 2008)

The first one relates to productivity, measuring the operating efficiency of DG Competition and national competition authorities. This approach may reveal whether the institution are working properly to achieve the objectives of competition policy and requires a comparison of inputs with outputs.

The second dimension is related to the quality of the entire implementation process which affects companies and public perception on the importance of competition policy as a tool to increase markets' functionality.

The last dimension is represented by the impact of decisions related to competition policy on different economic actors (consumers, companies and public institutions). All these initiatives are important for economic actors to better understand the role of competition policy in terms of improving the economic environment's conditions.

Lowe's approach can be completed by some indicators related to competition policy effectiveness calculated by the World Economic Forum and the European Bank for Reconstruction and Development.

For an overview of competition policy development and its enforcement in CEE transition countries, the indicator developed by Campbell and Vagliasindi (2004) and calculated annually by European Bank for Reconstruction and Development may represent a benchmark in analyzing the quality of competition law implementation in these countries.

In addition the methodology proposed by Hylton and Deng (2007) and Nicholson (2007) can eliminate some of the shortcomings of the WEF survey. While the approach proposed by WEF is related to business representatives' perspective, the

competition policy scope index constructed by Hylton and Deng can bring additional details regarding institutional and legislative aspects.

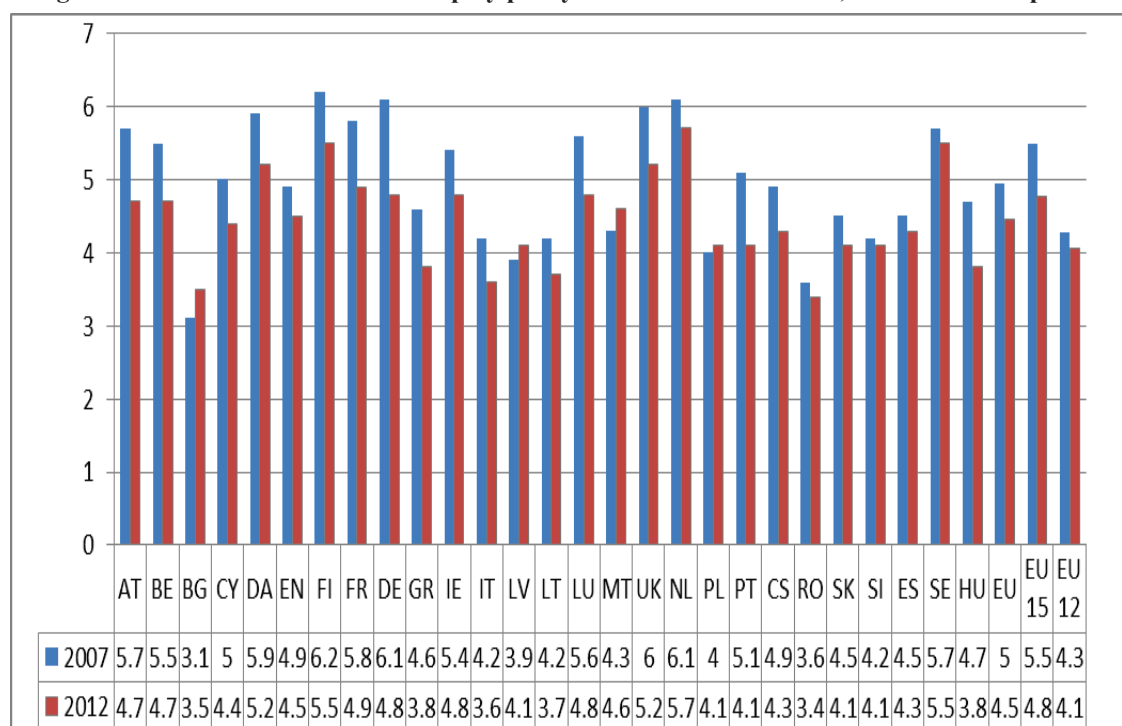
Analyzing the EU's competition policy effectiveness using the indicators mentioned above may allow the evaluation of its performances in terms of changes in the economic agents' competitive behavior or strictly from the point of view of legal and institutional effectiveness. Although these indicators cannot provide key elements related to competition policy's contribution to consumer welfare or overall economic growth, they provide some valuable information regarding the quality of competition policy implementation process in different EU's member states.

2. Competition policy effectiveness during the economic crisis

Using the survey method applied to business people, the World Economic Forum calculates annually and publishes in the Global Competitiveness Report the effectiveness of anti-monopoly policy index using a scale between 1 (indicates that antitrust policy is considered lax and not effective at promoting competition) and 7 (indicates that antitrust policy is effective and promotes competition). Although limited to a relatively simplistic and subjective evaluation of the effectiveness with which competition policy is applied, this index can provide an overview on the perception of business representatives about the quality implementation of national antitrust regulations.

Analyzing the scores registered by the EU's Member States in 2007 in comparison with 2012 a number of significant differences can be observed in terms of how it is perceived the effectiveness of competition policy. While countries such as the Netherlands (5.7), Sweden (5.5) Finland (5.5) and Denmark (5.2) have higher scores in 2012 than the European average (4.45) and are also among the most advanced countries in this field internationally (Netherlands first place, followed by Sweden third place, Finland forth place and Denmark tenth place), others such as new Member States (Romania, Bulgaria, Lithuania, Hungary and Latvia), but not only, are at significant distances from them.

Figure 1: Effectiveness of anti-monopoly policy index for EU countries, 2007- 2012 comparison



Source: World Economic Forum, Global Competitiveness Report, 2007-2008, 2012-2013

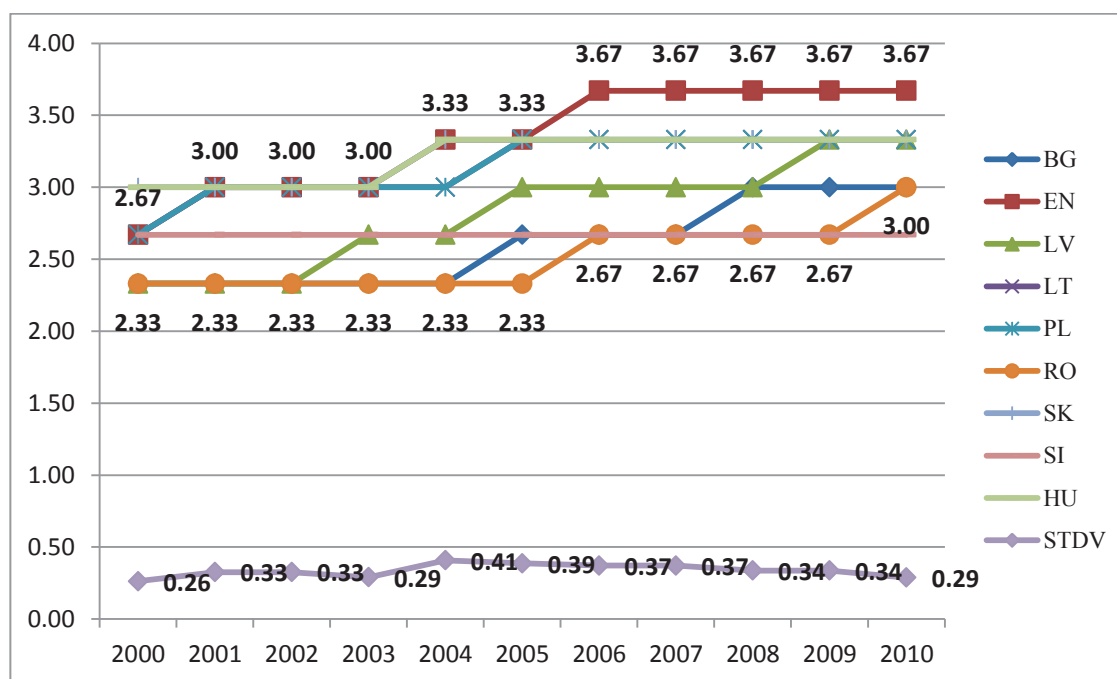
If for new Member States the relatively low value of this index may be partly attributed to the competition authorities' immaturity, not the same explanation can be attributed to the low value scores achieved by countries such as Italy (with an index value of 3.6, which is below the EU12 average and placed to 100th in overall ranking) and Greece (3.8) which are exceeded in 2012 by most of transition countries.

The stringency imposed by the negotiations process doubled by the reform package launched since 2004 seems to have had a positive impact on transition countries in terms of efficiency with which competition policy is implemented. Interesting is the fact that some of these countries (eg. Slovenia, Poland, Lithuania, Malta or Czech Republic) didn't register significant negative changes in terms of competition policy effectiveness during the financial and economic crisis. More than that, Poland, Latvia, Malta and Bulgaria are the only ones that registered a higher index value in 2012 comparing with 2007, although during the entire period there were some negative changes in their scores too. Except for these four countries, all EU's Member States registered lower scores in 2012 compared with 2007, the decrease being significant for EU15 states.

Effectiveness of anti-monopoly policy index has registered quite an abrupt decline since 2008 for EU15 countries. Related strictly to EU27, EU15 and EU12 averages, 2007-2012 was characterized by a decrease of competition policy effectiveness index, negative changes being more accentuated for EU15 countries. For EU15 countries the average score decreased from 5.49 in 2007 to 4.77 in 2012 while in case of EU12 countries the average score decrease from 4.27 in 2007 to 4.06 in 2012.

Regardless the group of EU states to which we refer, the conclusion is that economic and financial crisis caused a decrease of business confidence in the efficiency with which competition policy is implemented, due to a general reticence regarding the efficiency of recovery measures proposed by national or European institutions.

Figure 2: Competition Policy Index, CEE countries 2000-2010



Source: Transition Report, EBRD, 2000-2010

For the Central and Eastern European countries competition policy index estimated annually by the European Bank for Reconstruction and Development (EBRD) may be a benchmark in analyzing the quality of competition law enforcement. As it can

be seen in Figure 2, for CEE countries the 2000-2010 period has been one characterized by an improved performance in terms of competition policy implementation, significant positive changes occurring especially during 2004-2006, maybe as a consequence of the actions undertaken by the European Competition Network. However, the performances registered by 2010 valued at a maximum score of 4 - for Estonia, followed by Poland, Hungary, Slovakia, Lithuania and Latvia, each with a score of 3 + and Romania and Bulgaria with 3 points, are far from the developed economies' standards, which confirms the fact that there is a gap between new Member States and EU15 group regarding the quality of actions undertaken to ensure a level playing field for companies. (Hölscher și Stephan, 2009). Therefore for EU newcomers states it is necessary a more detailed analysis regarding national competition authorities activity related to the number of investigations initiated, training of personnel, financial resources available and the degree of coordination between competition authorities and other institutions towards improving overall economic performance.

3. Conclusions

At EU level creating a functional model of competition policy proved to be a lengthy process, sometimes marked by obstacles, redefinitions, adaptations and controversies about the legislative and administrative aspects.

The successive reforms launched in the late '90s focused primarily on decentralization of EU competition policy in order to increase transparency of decisions and creating a level playing field both for countries and companies operating in the Single Market.

Current economic and financial crisis has launched new challenges in each of competition policy's traditional areas of intervention, state aid being the most sensitive issue during this period. In this context a new version of EU competition policy has to be designed in order to promote a competitive environment and increase markets' functionality. Modernization of the regulatory and institutional competition framework imposes also an evaluation process of policy performance.

Based on the effectiveness of anti-monopoly policy index estimated by World Economic Forum 2007-2012 period was marked by a decrease of business confidence in the efficiency with which competition policy is implemented, negative changes being deeper in case of EU15 countries. In addition the analysis carried out for 2000-2010 based on the competition policy index estimated by the EBRD, confirmed that there is a gap between new member states and EU15 group regarding the quality of actions undertaken to protect competition.

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