The role of the competition policy in forging the European Common Market

Muşetescu, Radu and Dima, Alina and Cristian, Paun

Academy of Economic Studies Bucharest

15 December 2008

THE ROLE OF THE COMPETITION POLICY IN FORGING THE EUROPEAN COMMON MARKET

Radu-Cristian Muşetescu, Alina Dima, Cristian Păun*

***Abstract**: The forging of the Single Market represents the most important dimension of the first pillar of the European Union, which is the European Community. It can be argued that, as compared to the other two pillars (the Common Foreign and Security Policy and the Police and Judicial Cooperation in the Criminal Matters), it has the most powerful impact on the welfare of European citizens. The European policy makers define however the Internal Market as not only an economic area where there are no more state-imposed barriers in the path of the freedom of movement of goods and services at the borders of the member-states but also a single business environment where there are a single currency, coordinated economic policies as well as homogeneous business practices of private undertakings. In this process, despite a large set of common policies, the competition policy has reached the status of the building block of the Common Market.*

***Keywords:** market integration, competition policy, Common Market*

European Union is a political project which targets more than just a free trade are, like North America. As one commentator highlighted, "after two world wars, it was believed that economic integration was essential to avoid future conflicts. A mere free trade zone would not have been sufficient"[1]. It calls it the "taming of intra-European nationalism". Europe completed the elimination of state-barriers in order to reach the customs union in 1968, the legal framework for a Common Market in 1992 and the single European currency in 1999. But, from an economic point of view, the task of market integration seems not to be yet accomplished from the above-mentioned perspective.

The European competition policy seems to be the core policy that the European Commission, with the support of the European Parliament and the European Court of Justice, employs in order to continue the integration process. Practically, the challenge facing the European Union consists not in the already accomplished task of eliminating those barriers in the path of integration which are located *at the border* between member states but in the elimination of those barriers, more difficult to grasp and sometimes easy to conserve, which lie *inside the national markets*. Such barriers are the results of public policies of the member states and their interventionism but also, according to the perspective of competition policy, of the decisions of private undertakings looking for "avoiding competitive pressures". By

* **Radu-Cristian Muşetescu** is Lecturer, PhD, Department of International Business and Economics, Academy of Economic Studies, radu.musetescu@rei.ase.ro
Alina Dima is Senior Lecturer, PhD, UNESCO Department of Business Administration, Academy of economic Studies, alinamihaeladima@yahoo.com
Cristian Păun is Senior Lecturer, PhD, Department of International Business and Economics, Academy of Economic Studies, cpaun@ase.ro

[1] Anderson, Robert, Alberto Heimler – *"What Has Competition Done for Europe? An Inter-Disciplinary Answer"*, Aussenwirtschaft, December 2007, 2, 4, page 423;

condemning anticompetitive behavior of competitors as well as state aid that attempts to protect national market structures, competition policy has remained the main tool in the process of forging and protecting market integration into the European Union.

One of the core insights of economics is that, as a market gets broader (both geographically but also, more important, as the income of consumers), the division of labor gets deeper and the prosperity increases. At its turn, such a raise in prosperity encourages saving and increases in the stock of capital goods and fuels a further expansion of market and division of labor. The level of prosperity that could be reached in a competitive Common Market is surely over the level of prosperity attainable in any autarchic, even competitive, member state.

Objectives of competition policies

Competition policies in the world have traditionally followed several objectives in their 100 years-long history. While such a policy emerged in United States of America as a consequence of political objectives (the fight against big businesses), later it switched towards protecting market structures and finally towards enhancing consumer welfare. United States of America were already in the moment of adoption of the first antitrust legislation a unified central state with little room for state-level policies in the taxation or industrial field. While at first sight the objectives of protecting consumers and protecting consumers' welfare may seem similar, there are several cases where the main competition decisions reached different conclusions as a consequence to different perspectives. The most frequent situations emerge in the control of business concentrations and in the treatment of vertical agreements.

The fundamental dichotomy between the objectives of competition policy, setting aside the political objectives, lies between the protection of consumers' welfare and the protection of market rivalry. It is still a theoretical debate that wasn't concluded in economic science. Putting it simple, the first perspective may qualify a market as competitive even if there is only one competitor while the second perspective supports the protection of the market structure, that is, a minimum number of competitors[2].

The specificity of the European competition policy, as compared to the American counterpart, comes from the particular political construction of the European Union. The European Economic Communities is a union of member states that sometimes have a particular history of public interventionism. The founding fathers of the European project attempted first of all to fragment the German coal and steel cartels from Ruhr and expose them to the rules of competition. Such a concentration of this particular industry was regarded as a significant factor in the emergence of German militarism prior to World War II[3].

There must be remembered also recent propositions in which another objective of competition policy, particular to the case of Europe, should be also taken into account by Brussels, namely solidarity[4]. All these perspectives suggest that even competition

---

[2] see Musetescu, Radu – "*Parallelism and Convergence in the Contemporary Competition Policies: The European Model versus the American Model*", European Institute of Romania, working paper, page 37, downloadable at http://www.ier.ro/Studii/WP%2019.pdf;

[3] See Slot, Jan Piet – "*A View from the Mountain: 40 years of Developments in EC Competition Law*", Common Market Law Review, April 2004, 41, 2, page 445;

[4] Ross, Malcolm – "*Promoting Solidarity: From Public Services to a European Model of Competition*", Common Market Law Review, August 2007, 44, 4, page 1057;

policy may seem at first sight to promote objective and universal principles of economic policy, there are however huge ways to differentiate between different countries. From such a perspective, it seems that competition policy remains an instrument and not an end in itself.

Finally, the core dimension of the European competition policy lies in its objective of market integration. Several commentators[5] have argued that such an objective is unique to the case of the European Union. While market integration is a natural process even in the case of a free trade zone, we must remember that political objectives and soft nationalism have remained vibrant in Europe at the member-states level. European Union attempts to enforce, sometimes contrary to the common sense in business practices, a market integration that rewards the European citizens – in their quality as consumers.

All the dimensions of the European competition policy have a role to play in the forging of what the European policy makers considers to be an integrated market. We will point to these roles played by:

- horizontal agreements (cartels);
- vertical agreements (restrictions in the distribution contracts);
- the control of economic concentrations;
- the abuse of dominance;
- the control of state aid.

The fact that each of the fields of competition policy has a role to play in the integration of the Common Market may seem almost a paradox as this policy never explicitly formulated the integration of the European market as one of its core objectives. And our thesis is even more radical: without the competition policy, the enforcement of a Common Market such as the one envisaged by the European governance would be almost impossible. We will attempt to prove such a thesis in the following argumentation.

Barriers in the forging of the Common Market as a result of vertical agreements between firms

The behaviour of producers towards distributors and the possibility of the former to abuse their economic position as compared to the latter is one of the core dimensions of the operation of the competition policy even from its start. In the European case, one of the first cases from this field which reached the European Court of First Instance was Consten-Grundig in 1966. It was the case of a German producer, Grundig, which awarded to a French distributor, Consten, territorial exclusivity. That is, no other distributor may import Grunding products in France. Moreover, the distributor is prevented from reexporting Grundig products to other European member states' markets. As the verdict of the European Court stated, *"an agreement between a producer and a distributor which tends to reestablish the national divisions in the path of trade between member states may impede the fundamental objective of the Community. The Treaty, whose Preamble and Content attempt to abolish the barriers between states and whose numerous provisions supply evidence for a decisive attitude towards their reemergence, cannot allow private undertakings to rebuild such barriers. Article 85 was designed to follow this objective, even in the cases of companies which are positioned at different levels of the economics processes [on vertical]"*[6].

[5] Petrella, Ricardo – "*The Limits of European Union Competition Policy*", New Political Economy, July 1998, 3, 2;

[6] Decision of 13 July 1966;

This case will develop an entire legislation on vertical agreements. From the point of view of the infringement of the commercial freedom inside the European Union, the European jurisprudence has qualified as illegal the following types of vertical agreements:

- territorial restrictions or client restrictions;
- resale price maintenance;
- restrictions imposed by producers on their own suppliers at the marketing by the former of components directly to the final consumers of independent distributors (restrictions on "after-market").

The first category of agreements through which producers impose territorial restrictions on the distributors have the most negative effects on the integration process. For example, if on a Common Market with 27 member states, a French producer awards territorial exclusivity on each national market to a sole distributor and forbids it to resale on other markets, it may succeed to divide the market into 27 territorial distribution areas where differences in principles may impede the homogenization of the consumers' welfare.

Any producer may consider – and this really happened – that a differentiated price strategy may be attractive on markets with different average income levels. A market like Austria, a high income market, may offer the opportunity to higher pricing than a market like Romania, a low income country. While this may be a very reasonable marketing strategy, it contradicts the political objectives of freedom of movement of goods, services and persons. The barrier in the path of Austrian consumers to buy the same product from Romania while promoting the rights of European consumers may be a serious blow to the idea of common citizenship. This is a reason why the European competition policy places a strong emphasis on the so-called "parallel trade" and "intra-brand competition". In the first case, the ability of distributors of the same producers to reexport a product on other national markets puts a powerful competitive pressure on other distributors.

In the second case, the European consumer is entitled to purchase a product in any member state of the European Union as a confirmation of the political right in a United Europe. The ability of such a consumer to arbitrate between the offers of different distributors of the same producer which are located on different markets inside the EU does directly affect its wealth. The concept of intra-brand competition derives also from the objective to keep independent economic undertakings as autonomous as possible in order to stimulate their competitive behavior. Such a control of vertical restrictions does not operate in the case of an agent of the producer (a controlled entity). But it strongly encourages distributors to take into consideration the competitive pressure and it denies them a safe harbor in a territorial area.

Two of the most sensitive sectors in which this field of the competition policy is very active are the motor vehicle distribution and pharmaceutical products. In the first case, there is a product which does have a significant impact on the welfare of almost each citizen of Europe. In the second case, it is a product which is very sensitive from the point of view of the health of the European citizens. This is the reason why these two sectors know a large number of cases in the area of vertical restrictions.

The European Commission has followed closely, for example, the prices of motor vehicles distributed in Europe and took the price differentials as a sign of yet to fulfill market integration. According to its wisdom, "*in the context of the creation of a common market, an analysis of cross-border price* *divergence should reveal the scope and development of market integration. If the free movement of goods can be guaranteed within a truly single market, then the consumer will be empowered to shop around the entire Union for their vehicles, leading eventually to price convergence*"[7]. Such a perspective may be put under question but it consistently influenced the competition policy in Europe.

For example, one of the first cases in this respect is BMW Belgium versus the Commission on which the European Court of Justice issued a verdict on 12 July 1979. As its German headquarter noticed a significant increase in the number of cars imported from Belgium, the local branch obliged the distributors on this market to agree to a supplementary provision through which they stopped reexporting on the German market. It was a classical case of attempting to prevent parallel trade and the Commission punished it. Other cases like Ford and Wolkswagen also confirmed a strong stance of the Commission in this policy.

The same anticompetitive practices as qualified by the European competition policy are met in the pharmaceutical sector. GlaxoSmithKline (GSK) is a British company, one of the largest pharmaceutical producers in the world. Its distribution policy was proved to contravene to these principles of the competition policy and it was accused by the European Commission of attempting to prevent the parallel trade in pharmaceutical products between Spain and United Kingdom. As this producer implemented a dual pricing strategy as it considered that the differences in income between the two countries allow it, the activity of reexport of GSK products from Spain to the home country significantly expanded. When British distributors claimed a break in their territorial rights, GSK attempted to prevent its Spanish distributors to continue this practice. At a certain point, the producer even menaced its distributors with the cessation of the distributorship. The European Commission punished such a business practice on 8th May 2001[8].

It has to be mentioned that there are a number of reasons in the favor of a distribution policy based on territorial exclusivity and multiple pricing. But such a marketing strategy does contradict the political objectives of the European Union which is rated higher by the European policy makers. In fact, Europe strongly enforced new concepts in antitrust which are the image of its approach. "Selective distribution" and "multiple brand channels" are some of them. Producers have to assure an open-access distribution policy with objective selective criteria for any potential distributor. In the second case, distributors are entitled, in case of selective distribution, to market several competing brands.

Barriers in the forging of the Common Market as a result of horizontal agreements between firms

Horizontal agreements between firms – namely, between competitors – are declared *per se* illegal by the fundamental Treaty of the European Union. Article 81 of the Maastricht Treaty (former article 85 of the Rome treaty) declares as incompatible with the Common Market the following types of agreements between firms:

[7] Marco Colina, Sandra – "*On the Road to Perdition? The Future of the European Car Industry and Its Implications for EC Competition Policy*", Northwestern Journal of International Law & Business, Fall 2007, 28, 1, page 41;

[8] This case is more difficult as besides parallel trade there are also other aspects related to the drugs prescription policy and drugs distribution in general in United Kingdom. This is the reason why the European Court of First Instance finally altered the verdict.

(a) directly or indirectly fix purchase or selling prices or any other trading conditions;
(b) limit or control production, markets, technical development, or investment;
(c) share markets or sources of supply;
(d) apply dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage;
(e) make the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts.

From the point of view of the forging of the Common Market, the most important clause refers to the "sharing of markets". For example, even in the situation where there are no more trade barriers between the commercial transactions between two (or 15 or 27) countries, the trade between the two economies may become marginal in the condition that, on these markets, there are two (or 15 or 27) dominant companies which explicitly agrees through a cartel to not compete each on the other's market. Exports will become irrelevant even if there is a free trade are between the two countries and consumers will not be able to benefit from the political integration in terms of competitive prices of increased set of alternatives. The same effect can be obtained by an agreement between the two companies to "allocate relevant clients" in the industrial markets. Such business decisions can deny the effects of a political integration.

Other examples are the decisions of private firms to avoid investments in other national markets which devoid the freedom to capital transfers inside the European Union. The ability of a European company to exploit spatial or other economic advantages of a European member state is denied and the competitiveness of the entire European economy may suffer. While the ability of a foreign (non-European) company to enter the Common Market may finally assure the preservation of the competition, the emergence of European-wide competitors, able to compete also on the international markets is seriously impeded.

Barriers in the forging of the Common Market as a result of abuse of dominance

The concept of "dominance" is the European translation of the concept of "monopoly" from the American counterpart. It was defined as *"a position of economic strength enjoyed by an undertaking which enables it to prevent effective competition being maintained on the relevant market by giving it the power to behave to an approachable extent independently of its competitors, customers and ultimately of consumers"*. Several scholars have argued that *"the fluidity of the concept may enable the Commission to exercise its authority to protect competitors"*[9].

The classical perspective on monopoly highlighted the exploitative abuse, namely the perception by the monopolist of a higher than competitive price through limitation of the supply. However, an increasingly significant dimension of the abuse of monopoly consists today on the European market in the exclusionary abuse. In such cases, a European undertaking which is in a dominant position on a market may:

[9] Glifford, Daniel, Robert Kudrle – "*European Union Competition Law and Policy: How Much Latitude for Convergence with the United States*", Antitrust Bulletin, Fall 2003, 48, 3, page 738;

- Directly or indirectly impose “unfair” prices or trading clauses;
- Apply different condition to equivalent transactions with different parties, placing some of them in a competitive disadvantage;
- Condition the conclusion of contract by the acceptance of supplementary clauses which, by their nature and according to commercial practice, do not have a significant relation with the object of the contract.

The impact of the abuse of dominant position becomes relevant in the context of intra-community trade when a European company would decide to enter another market which is dominated by a local firm. While nobody can guarantee *ex ante* that such a process will be successful, the European legislation attempts to eliminate the possibility that the local firm build such “artificial” barriers as:

- “single brand” obligations: the distributors are not allowed to commercialize products with another brand than the dominant firm;
- “bundling” or”tying” obligations: the dominant firm decides to offer bundles of products, each with a different market position on different markets. The dominant firm may attempt to prevent the entry of a foreign competitor on a particular market by bundling the product with a product which is dominant on another market.
- “non-compete” obligations: the dominant firm imposes its distributors not to market the products of a competitor within a period after the cessation of its distributorship.
- Others.

Such a perspective confirms the fact that a European Common Market with 27 member states and 27 dominant companies is not qualified by the European Commission as an integrated market. The role of competition policy consists in opening even more the national markets – even the ones dominated by local firms – to the competition from other European companies. While even the concept of monopoly can be debatable, as certain scholars argue that only state barriers to entry guarantees the monopoly position, it is clear that European policy makers have a broader (less public) concept of monopoly – or “dominance” in European words – and they attempt to forcefully open the competition in such markets.

Barriers in the forging of the Common Market as a result of barriers to economic concentration

As we already have seen, a European Common Market is not limited, in the vision of European decision makers, to a free trade area where goods can freely transit. The freedom of the factors of production involves also the ability of the European companies to expand not only through exports or external growth in their home market but also by acquiring a company in any other European market. Or, from this perspective, the ability of European companies to grow through such a channel has been historically impeded by the intervention of member states. Even if a widespread process of privatization matured at the beginning of the 90s in all European countries, it must be noticed a continuous interest of the political decision makers in the fate of local companies. Such an interest usually took the form of strong support towards national strategic investors.

European member states seem to have never fully accepted a free market of corporate control on which the European investors and companies could freely transfer capital in order to take over other companies.

Historically, European member states have never known a free market for corporate control such as the one in United States of America in the late 80 (which knew the LBO wave). There are other reasons in this respect, among which the lack of mature capital markets but the core factor is still found in the historically aggressive public interventionism. As certain analysts highlights, "*the rivalry norm provided the best rational for maintaining some viscosity in a very fluid environment of unprecedented economic change, including a generally much greater level of international competition. Some leaning toward the status quo therefore provided the norm most conducive to maintain widespread political support for the new Common Market*"[10].

As a consequence, the fundamental approach of the European competition policy was that competition was the result of the market structure (more competitors the better) and not of the competitors' behavior (a sole competitor but with free market entry qualifies as a competitive market). It was, in fact, the only political option. Moreover, such a political interference has been maintained in a significant number of member-states even 50 years after the start of the integration process. Even in 2008, the European Commission paid more attention to a German law adopted in 1960 through which the German auto producer Volkswagen was privatized (the law is better known as the "Volkswagen law"). In 1959, the German federal government (the Bund) and the Land of Lower Saxony agreed to prevent the possibility that a private financial investor get more than 20% of the voting rights in the General Meeting of Shareholders. The two public authorities decided to confer to the existing shareholders who detained more than 20% (that is, themselves) have a veto right in a certain strategic decisions. The two governments (federal and local) also agreed to maintain 2 members in the Supervisory Board of the producer.

European Commission noticed that such provisions seriously impede the freedom of capital inside the European Union and lowers the interest of financial but also industrial investors in a particular company. The interest of the German governments has not been financial (the private investor principle) but purely nationalistic and breaches the core legal framework of the Common Market. The European Court of Justice supported this perspective in his ruling of 23rd October 2007 the rights of the public authorities were annulled. Other cases like ENDESA in Spain or the speedily arranged merger between Suez and Gas de France suggest that governments in member states are still not ready to fully accept the rules of the competitive game. European competition policy enforces however these rules, has the Treaty on its side and finally governments have to accept the outcome of the market process. Germany, as well as Spain, had to give up its position.

The community dimension in economic concentrations

The dilemma of the European policy makers from the point of view of the control of concentrations is to prevent the emergence of dominant companies that could abuse their position but meanwhile to support the growth of European companies in order to enable them to successfully compete with American and Japanese players on the international markets. The danger posed by an aggressive control of economies concentrations is to maintain a fragmented market structures which mean small European competitors. The

[10] Gifford, D. – [2003], page 754;

answer to such a dilemma – whether deliberate or not, it is a question – comes from what is seemingly a technical provision: the concept of "relevant market". Such a concept is fundamental as in any competition case, the market shares of the companies involved are calculated taking into account what is defined as the relevant market. In the case that the European Commission defines the relevant market in a broader sense, market shares will be smaller. If the relevant market is defined in a narrower sense, the market shares (and the number of competitors) will be higher.

A competition case may lead to a totally different verdict taking into consideration other relevant markets. One of the cases that made history in United States of America was Standard Oil versus USA in 1931. The defenders (large refining companies) have succeeded in demonstrating that the relevant market was the entire refining industry (where their combined market shares reached 26%) and not the refining market that used a certain type of cracking technology (where their combined market shares were 60%). Such a demonstration succeeded in dismantling the entire federal case against the industry as the argumentation of the prosecutors was based on the narrower definition of the relevant market[11].

According to the geographical definition[12], *„the relevant geographic market comprises the area in which the undertakings concerned are involved in the supply and demand of products or services, in which the conditions of competition are sufficiently homogeneous and which can be distinguished from neighbouring areas because the conditions of competition are appreciably different in those areas"*[13]. According to such a definition, a relevant market may comprise the entire Common Market, a national market of a member state or a subnational area (like, for example, a city). As long as the principles of competition policy are enforced irrespective on the level, we can notice a so-called "Community effect" in the process of firms' growth. As a large – even a dominant – company from a member state attempts to grow, it will be forced to avoid the relevant market it is present in (subnational or national) and be encouraged to grow in other European member state. As a consequence, the strict enforcement of the concept of relevant market and the reality that for most industries and companies such a market is smaller than the Common Market has a Community effect. In other words, the enforcement of such concept encourages companies to "Europeanize" when they grow, a fact that has also a deep effect on the political scope of market integration.

Let's suppose, for example, that the relevant geographical market for a large company is the Romanian market. If such a company attempts to externally grow by acquiring a certain competitor, it will most probably avoid to acquire a Romanian competitor – as such an option will be most probably blocked by the Romanian competition authorities – and will follow the option of acquiring a potential competitor from the same industry from another European member state (like Austria's). The market structure of the Romanian market is protected and the Romanian large company will "Europeanize" by growing in other markets in Europe. By such a pure technicality, the control of concentrations enforced by the

[11] See Kovacic, William and Carl Shapiro – "*Antitrust Policy: A Century of Economic and Legal Thinking*", The Journal of Economic Perspectives, Vol. 14, No. 1, Winter 2000, page 48;

[12] European law defines the relevant market according to two dimensions: product and geography.

[13] Commission Notice on the definition of relevant market for the purposes of Community competition law, EEC OJ 372 din 9/12/1997.

European competition policy will encourage the emergence of European players instead of local monopolies. Such companies will increasingly loose their "nationality" by becoming "European".

Such a reality support the perspective that, by applying a concept of relevant market which is smaller than the Common Market, a Community effect will be obtained. Such an impact will enforce the process of market integration by homogenizing the competitive conditions in Europe. European significant companies will prefer to grow in other European markets than their own.

Barriers in the forging of the Common Market as a result of state aid

The control of state aid awarded by the European Union member states is also a field which operates into the broader goal of an ever integrated Common Market at European level. State aid was defined in the Treaty of the European Union (article 87) as "*any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the common market*".

Such a broad definition of the concept of state aid raises serious questions regarding the definition of what means "distortion" created by member states' interventions. A state intervention is by its nature opposed to the market process and, from such a perspective, any state intervention generates an anticompetitive outcome. But the fundamental objective of state aid control into European Union is not the one of reducing overall public interventionism but to discipline the interventions of the member states into the economy. A Common Market with 6 (or 27) member states where state aid is not forbidden may generate a total competition between member states in aiding their companies. This cannot be but a race to the bottom of total redistributionism in the economy as any state will explore the limits of interventionism. As Geroski[14] stated, "*support for national champions can look like a positive (or a 'win-win') sum game from a national point of view, but it almost always leads to a prisoners' dilemma when viewed globally. That is, when every national champion attracts support from its host government, nothing is altered between the champions in the market (their relative positions have not changed) but taxpayers the world over have been made worse off*".

The logic of classical interventionism is that the largest companies from a country will receive most of the aid. States usually pick national champions or industries in their drive to generate growth and support them in order to have an advantage towards their foreign (but also European) competitors. But such a perspective on state aid can be proved to be erroneous from the point of view of efficiency of allocation of resources or the incentives created to beneficiary companies. It is a serious question whether the companies that receive most of the aid are the ones that will win the competitive process. As a general rule, the companies that receive the largest state aid will become addicted to such resources and will most probably loose their ability to compete.

In fact, the state aid forbidden by the European legislation would be normally directed towards preserving market structures and preventing the dynamic adjustment of the

---

14 Geroski, Paul – "*Essays in Competition Policy*", UK Competition Commission, August 2006, page 40, downloadable at http://www.competition-commission.org.uk/our_role/analysis/essays_in_competition_policy_paul_geroski.pdf;

local industry or supporting national players in their competition on the Common Market. That is, state aid prevents the European market integration by artificially protecting local companies in their competition with other European companies. Moreover, in this race to the bottom, champions from member states with fewer resources will be easily swallowed by champions from the member states with larger resources. Such a competition leads inexorably to plain-vanilla socialism as each member state will attempt to get more resources from society in order to offer more aid to local companies.

Conclusion

Competition policy plays a fundamental role in the fulfillment of the main objective of the European Union, namely the market integration. While such a role may sometimes put pressure on business practices that seem natural, the European Commission proved to make no compromise in this direction. Moreover, the European competition policy proved to take an innovative role in designing new tools such as the treatment of vertical agreements, merger control and state aid. It can be argued that such a policy remained the most important instrumentality in the enforcement of this process as all the public barriers which lied at the border of the member-states disappeared after 1992. Today, the challenge of Europe, is to deal with barriers that lie inside the border of the European countries, in public policies or business practices that still contradict the idea of the Common Market.

REFERENCES

- Anderson, Robert, Alberto Heimler – "*What Has Competition Done for Europe? An Inter-Disciplinary Answer*", Aussenwirtschaft, December 2007, 2, 4;
- Geroski, Paul – "*Essays in Competition Policy*", UK Competition Commission, August 2006, page 40, downloadable at http://www.competition-commission.org.uk/our_role/analysis/essays_in_competition_policy_paul_geroski.pdf
- Glifford, Daniel, Robert Kudrle – "*European Union Competition Law and Policy: How Much Latitude for Convergence with the United States*", Antitrust Bulletin, Fall 2003, 48, 3;
- Kovacic, William and Carl Shapiro – "*Antitrust Policy: A Century of Economic and Legal Thinking*", The Journal of Economic Perspectives, Vol. 14, No. 1, Winter 2000;
- Marco Colina, Sandra – "*On the Road to Perdition? The Future of the European Car Industry and Its Implications for EC Competition Policy*", Northwestern Journal of International Law & Business, Fall 2007, 28, 1;
- Musetescu, Radu – "*Parallelism and Convergence in the Contemporary Competition Policies: The European Model versus the American Model*", European Institute of Romania, working paper, downloadable at http://www.ier.ro/Studii/WP%2019.pdf;
- Petrella, Ricardo – "*The Limits of European Union Competition Policy*", New Political Economy, July 1998, 3, 2;
- Ross, Malcolm – "*Promoting Solidarity: From Public Services to a European Model of Competition*", Common Market Law Review, Auust 2007, 44, 4
- Slot, Jan Piet – "*A View from the Mountain: 40 years of Developments in EC Competition Law*", Common Market Law Review, April 2004, 41, 2;
- Commission Notice on the definition of relevant market for the purposes of Community competition law, EEC OJ 372 din 9/12/1997.