IMPACT ASSESSMENT OF ECONOMIC CONCENTRATIONS PARTICULAR FOR FOOD RETAIL MARKETS IN REPUBLIC OF MOLDOVA

Anatol CARAGANCIU

Lucian Blaga University of Sibiu

Abstract

The authorities' attention for economical concentrations is determined by the need to prevent the creation of obstacles to the free expression activities as a result of the creation or strengthening of a dominant position. The concept of concentration includes transactions that result in lasting change of control of the undertakings, which reflects in market structure.

The benefits aim require market players to recourse to the changes and continuous development. The market implies a close relationship between its actors, and the changes that occur within it influence all market actors, and the final consumer. Lasting changes such as merger may distort the functioning of markets, affecting effective competition. Moreover, market shares, in case of mergers, are factor that directly influence on the dimension of the merger effects.

This paper presents an analysis of the impact of economic concentrations particular for food retail markets in Republic of Moldova. The merger effects measures through market shares held by companies taking part to the concentration. Distortion of competition following concentrations can be expressed through the establishment or strengthening of dominant position, coercion final consumer product choice, price coordination, creating barriers to entry, etc.

Determination of the relevant product and geographic market are analytical premises of mergers. The most effective method to identify the relevant market is hypothetical monopolist test. This test defines the relevant market by checking the gain through the product selling price increases by a hypothetical monopolist over a period. The relevant market is where hypothetical monopolist does not decreases profit from rising prices.

The market shares can be determined using statistical and econometric methods. Usually, the statistical methods of analysis determine the market shares held by companies and the competition on market. The measurement of the degree of market concentration by adding the quotas of all companies from the market, presents a most reliable information of market structure and demand elasticity.

Keywords: merger, takeover, market structure, the upstream market, downstream market

JEL classification: D40, D43, D22, D23, C10

1. Introduction

Due to the control over competitors that take place as a result of the economic concentration transactions, they can have a significant impact on the market. The transactions in economic concentration requires an analysis both quantitative and qualitative. Reaching or strengthen a dominant position as a result of the economic concentration operation reduces the market power of competitors, and may restrict the decisions of the final consumer. In accordance with the principles of the EU on the rules in the field of competition consumer welfare is essential. Therefore, the analysis should take into account the impact of the post-transaction on the benefit of the consumer. If as a result of a transaction, arising from the qualitative analysis the consumer would have benefits; this transaction may be allowed even if the power dominated increases.

2. The applied research methods

In accordance with the definitions of the Competition Law [1], "economic concentration shall mean operations which result in a lasting change on the control of the undertakings concerned and therefore on the structure of the market".

The operations of economic concentration, within the meaning of Article 20(2) of the Competition Law [1], shall take place in the case where the change in the duration of control of the resulting from the merger of two or more previously independent or more parts of independent undertakings; or the acquisition by one or more persons already controlling at least one undertaking or by one or more undertakings, whether by purchase of values (parts of social value) or assets, by contract or by other means, of direct or indirect control of one or more undertakings or parts thereof, including by the development of a company in common performing on a lasting basis all the functions of an Autonomous economic entity.

Evaluation of economic concentration operations directly involve the market analysis on serving the parties to the concentration. The identification of the limits of the relevant market contribute to the achievement of information with regard to the market concentration and the size of the impact, which may take place on the market following the transaction. The determination of the relevant market, both at the level of the products and to geographical, must allow identification of the existing competitors and potential economic agents analyze, who are able to make the behavior of the respective companies and to prevent it to act independently of the pressures of a competition.

The definition laid down by the European Commission for the relevant market [2] affects the demarcation of the tension of a market under the aspect of identifying the product, and the geographical area in the following way. "A relevant product market comprises all those products and/or services which are regarded as interchangeable or substitutable by the consumer, by reason of the products' characteristics, their prices and their intended' and '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 neighboring areas because the conditions of competition are appreciably different in that area . Thus, the relevant market in which to assess a given the competition problem is determined by combining the market in the products and the markets geographical indications.

A modern tool for the analysis of the relevant market, widely used is"The small but Significant and Non-transitory Increase in Price" (SSNIP). The purpose of this test is to identify the market on which a hypothetical monopolist would achieve a small but significant and non-transitory increase in price, and would get the profit. This analytical tool to mergers, was introduced in the Merger Guidelines, the Justice Department of the United States in 1982, as a new procedure for defining the markets and to direct measurement of the market power [3]. In the 1997 in the European Union as well, the European Commission has officially recognized this test in "Note of the Commission relating to the definition of the relevant market" [2].

The procedure to determine the market-using test SSNIP consists in the identification of the smallest market that hypothetical monopolist may increase the price of the product, recording profit on. In the case where the application of the test on a market analysis shall not apply to the conditions of the test, for analysis will be added per row closest substitutes. The procedure is repeated until the hypothetical monopolist will record profit as a result of the price increase on the market. This test assumes the stamp of a group of interchangeable products, which are present in a given geographical area, and the price is assumed to be increased by 5-10%. The results of this test may vary depending on the product with which the analysis begins and the order the others will be added to. In this way, SSNIP test provides complete information about the market dimension and the market power of the parties to the concentration.

A basic condition for the effectiveness of the application of the test SSNIP is the use of a small number of products as well as it is possible, and minimal territorial limits for a more realistic analysis of the market. And in the conditions where the data are available in the appropriate for the estimation of the elasticity of the demand for the products of consumption differentiated and for goods, the SSNIP test application can be relatively straightforward. As a result of this test may be concluded the possible distortion of competition on the market following the transaction of economic concentration.

Currently, the Hypothetical Monopolists test is the unique method of identification of the relevant market approved by the components of competition authorities in the United States, and one of the basis methods used in the EU. In addition to the method SSNIP in EU countries are used another methods of analysis of the relevant market, such as the analysis of the fluxes of commerce, comparison of price levels and analysis of the correlation coefficients prices. The intuitive and less cost methods are used more frequently than the standard method, SSNIP test.

The legislation of the Republic of Moldova provides for the use of the evidence enough to reach a conclusion on the size of the market, which is obtained either from undertakings, either on the basis of preliminary information. For the evaluation of product substitutability, they are taking account of the information relating to the use of the products, substitutability check or the characteristics of the similar. In the case where the evidence in question is not sufficient, the analysis will take into account the other categories of items, including pricing information, the responsiveness of the customers to the permanent and significant growth of prices. Shall be deemed to be significant increase in prices by 10 %, this method seems to be similar to SSNIP test.

The establishment of a dominant position using the economic concentrations resulting through modifications of the structure and increasing the market share, may affect the competitive environment on the market, generating effects as well as the creation of entry barriers, the abuse of a dominant position, etc.. The analysis of the market power of the economical agents in a relevant market allows the controlling bodies to avoid or eliminate distortions of competition on this.

The determination of the market shares provides the controlling bodies a clear vision of the situation on the analyzed market segment, and the possibility to identify the risks of distortion of the competitive environment on it, after the economic concentration take place. Statistical methods to the establishment of the market shares are efficient and widely used in the framework of mergers.

The Herfindahl-Hirschman statistical method was introduced as a new indicator of concentration in the framework of the second editorial staff of the Merger Guidelines, the Department of Justice of the US in 1982, and is widely applied in market research. The calculation of this indicator means the summation of squares of the individual market shares of all the market participants that is analyzed (1). If the market shares are shown in percent, then the result can have values from 0 to 10000 [2]. The Justice Department of the US divides the spectrum of the concentration of the market, measured by HHI in three types, which can be characterized in the following way:

- Un-concentrated, HHI (1000);
- Moderately concentrated HHI, (between 1000 and 1800);
- Very concentrated form, (HHI over 1800).

A study of the empirical distribution of the size of the firms on the markets indicates that the critical HHI at 1000 and 1800 correspond approximately the thresholds of concentration of 50% and, respectively, 70%. And numeric divisions suggest a higher accuracy than is possible with the instruments and economic information available. Other things being equal, cases which are located just above and below a threshold shall submit to the competitive concerns comparable. A merger of 2 companies a, and b, leads to an increase of the HHI indicator with 2AB value (2) [4].

The Herfindahl Hirshmann formulas are:

$$HHI = \sum S_i^2 \quad (1)$$

$$\Delta HHI = \left((a+b) + \sum c_i^2\right) - \left(a^2 + b^2 + \sum c_i^2\right) = (a^2 + 2ab + b^2) - (a^2 + b^2) = 2ab \quad (2)$$

The introduction into the practice of the competition authorities of the index HHI has revolutionized the practice of the analysis of concentrations, because it takes in account all companies which are active on the relevant market, holds the statistical special notes, and creates the link between the structure of the market, the strength of the market and elasticity demand [4]. Due to the practices noted in the USA in 2003, according to which have been published statistics, that showed the mergers rarely have led to the levels of concentration of HHI less than 2000, in 2010 the competition authorities have modified the indicators in which are classified markets as being concentrated with the index HHI under 1500, moderate concentrates with the index HH between 1500 and 2500 and highly concentrated with the index HH over 2500 [4].

At the same time, by the authorities of the competition have been defined certain standards in general for the relevant markets such as:

- small change of the concentration: mergers which involves an increase of the HHI with less than 100 points are unlikely to have competitive effects adverse effects and do not usually require an additional analysis.
- Un-concentrated Markets: mergers which lead to the un-concentrated markets are unlikely to have competitive adverse effects and typically do not require an additional analysis.
- Moderately concentrated Markets: mergers which lead to moderate markets concentrates, which involves an increase of the HHI by over 100 points, could raise significant problems of competition and often justify the control.
- Very concentrated Markets: mergers which lead to very concentrated markets, that involves an increase of the HHI from 100 points to 200 points, generates potential significant problems of competition and often justify the control.

Mergers which have as a result very concentrated markets which involve an increase of the HHI by over 200 points will be susceptible to the power consolidation on the market. The presumption can be rejected by convincing evidence showing that it is unlikely that the merger strengthen the market power [5].

Determination of the impact of the concentrations on the market cannot be generalized, each case involves particular conditions that can be decisive for generating effects on the competitive market. And as a result of the determination of the market power, an analysis of the cases involves the evaluation of the private factors and identifies changes which may take place on the market as a result of the economic concentration operation. It also requires account the special features of the market in which the process of concentration is to take place.

3. CASE STUDY

An illustration of the evaluation of the impact of an economic concentration on the food retail market is shown in the example (real case) of one company assets takeover by another which activates on this market.

The involved parties

The parties involved in the transaction are 2 companies (X) and (Y) that have networks of supermarkets.

The Company (X) is part of a group of companies which operates on the territory of the Republic of Moldova. The Company (X) has participated in the transaction together with other 2 companies (Z) and (K) that they are part of the same group, and who practice the same type of activity.

The Company (Y) in 2013 has gone from the market of the Republic of Moldova by releasing the active commercial spaces that are the subject of the transaction.

The kind of activity of the parties

The kinds of activity practiced by the parties to the concentration in accordance with Economical Activities Classifier of the of Moldova and according to the extract from the "State Chamber of Registration " are retail trade in common shops, mostly in supermarkets, with the predominance of food products, drinks and tobacco products.

Economic Sectors which represents their activity is the retail trade of food and non-food stuffs through commercial points. Trade companies involved in the transaction practice the same kinds of activity.

Description of the operation

The operation consists in taking over a part of the assets that are necessary for the commercial activity. The Company (X) purchased from the company (Y) a part of the assets (equipment), at the same time has taken by way of the tenancy 7 spaces intended for marketing, where the company (Y) was performing activity before the transaction. The company (Y) from which they were taken over the assets, in 2013 has gone from the market of the

Republic of Moldova by releasing the active commercial spaces. Thus, the company(X) has taken by way of the tenancy spaces which were not performing activity already. Of assets has been acquired a part, which was most welcome for the production process. In the same way the company (X) procured other equipment necessary for the activity. At the same time the company (X) mentions that the transaction will have benefits for the consumer in the first place, who has remained in that area without any supermarket.

The transaction aim

The Company (X) who took over the assets notes that the purpose of carrying out the transaction of the assets purchase and tenancy of the commercial spaces is to obtain income as well as to increase the efficiency that compensates any anti-competitive effects on consumers, with the guarantee that the mentioned practices are indispensable and proportionate to the pursued purpose.

The transaction value

The estimated overall value of the transaction constitutes 9.800.000.00 lei (nine million eight hundred thousand lei) for the purchase of commercial equipment and the value to the spaces taken in the tenancy shall be estimated in dependence on the amount of monthly payments indicated in the contracts and their duration; as well as the exchange rates that will be established by the National Bank of the Republic of Moldova.

The transaction size

In the previous year to the economic concentration operation, the party who has taken control registered a turnover in value of 997498281 lei and the company which has been taken over, 119 052 932 lei.

Competition Law [1], provides for a threshold of the transactions size of the aggregate turnover over 25000000 in which at least 2 parties involved in the transaction have achieved in the previous year a turnover of more than 10,000,000 lei.

The parties involved in the transaction exceed the threshold provided for by law, arising from this; the operation of the economic concentration requires analysis of the compatibility with the normal competitive environment on the market.

The relevant market

Company Group (X) develops their activity on the territory of the Republic of Moldova.

It has 2 networks of supermarkets, which are formed of 23 and 33 shops, which include the whole territory of the Republic of Moldova. Of these, 14 and 23 are situated within the territory of the city of Chisinau, and 9 and 10 respectively situated in regions.

The Company (Y) had a network of shops, made up of 9 supermarket shops, situated on the territory of the city of Chisinau. In 2013, the company has gone from the territory of the Republic of Moldova and carrying out his activity in Great Britain. The groups of goods sold by the parties involved in the concentration are shown in table 1.

Table 1: The groups of sold goods

Order nr.	Name of group	Order nr.	Name of group
1	Alcoholic beverages	17	Sauces, spices
2	Weak alcoholic beverages	18	Pickles
3	Non-alcoholic beverages	19	Vegetable oils
4	Cheese	20	Snacks
5	Sausage	21	Culinary products
6	Meat products	22	Eggs
7	Fish	23	Children's products
8	Bakery	24	Animal products
9	Pastry	25	Tobacco products
10	Diabetic products	26	Household chemical products
11	Frozen products	27	Toys
12	Dairy products	28	Care products
13	Fruits and vegetables	29	Seasonal products
14	Grocers	30	Household goods
15	Preserves	31	Office supplies
16	Tea, coffee	32	Clothes / shoes

Source: by author

In the sector of current consumption goods trade, predominantly food, aimed at the effects on competition, were analyzed 2 product markets, the downstream and the upstream. The upstream market means the supply, where representatives of the retail act as buyers in the relationship with the producers. The downstream market represents the retail trade, where representatives of the retail act as suppliers to final consumers.

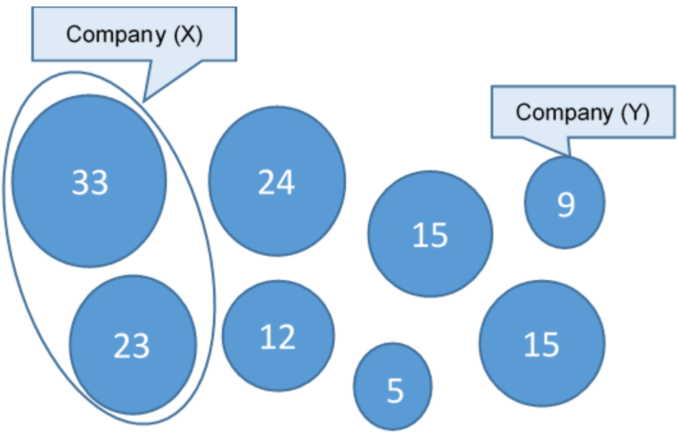
Using the methodological approach of components of control has been defined the relevant market by deductive methods with the use of the evidence enough to reach a conclusion on the size of the market. In such a way, relevant product market for the purposes of the examination of the case is: the upstream market of supply and the downstream market of commercializing in non-specialized retail shops, selling mainly food products, drinks and tobacco products.

The relevant geographic market in accordance with the data submitted by the company (X), sold the predominance of food products, drinks and tobacco products throughout the territory of the Republic of Moldova. The undertaking (Y), sold the predominance of food products, drinks and tobacco products only on the territory of the Chisinau city. Having regard to the binary character of the determined relevant product market, it has been established that the market share of the upstream is the market for the supply of the whole territory of the Republic of Moldova and the downstream market is the market of the retail trade in the territory of the Chisinau city. So the relevant geographic market is the territory of the Republic of Moldova. The relevant market for the analyzed case is the upstream market of the supply and the downstream market is the market of the retail trade in general-interest retail shops, with the predominance of food products, drinks and tobacco products on the territory of the Republic of Moldova.

Competitors

As market competitors, there were identified 5 market networks, as shown below

Figure 1 The commercial dimension of competitors on the market



Source: by author

The market power

The establishment of the market shares on the basis of the commercial dimension in relation with the competing commercial networks, results for the company (X) a market share of 41 %.

Table 2: Commercial networks market shares

Order nr.	Commercial network	Nr. of held markets	share, %
1	Company (X)	56	41
2	Company (Y)	9	6,617
3	Company (Z)	15	11,029
4	Company (V)	12	8,82
5	Company (S)	5	3,77
6	Company (H)	24	17,64
7	Company (N)	15	11,029

Source: by author

The IHH value, calculated on the basis of the data presented in table 1:

$$\text{IHH} = \sum S_i^2 = 2362{,}04,$$ before the transaction.

If the value of the assets transferred shall be 1 %, IHH index, after the concentration shall be as follows:

$$\text{IHH} = \sum S_i^2 = 244199,$$ after transaction.

And, ΔHHI=79,95

In accordance with the Horizontal Mergers Guideline of Federal Trade Commission, 2010 the market, subject of the analysis, is moderately concentrated (with the HHI between 1500 and 2500). And the general standards for the relevant markets, in moderately concentrated markets, mergers which involves an increase of the HHI up to 100 points, does not give rise to significant competition problems.

At the same time there have been analyzed the peculiarities of the transaction that are:

1. Assets acquired (in the form of equipment) present a very small part of the value of the company (Y) assets, which may not be interpreted as the basis of takeover.
2. The Company (Y) has ceased trading on the market of Republic of Moldova before performing the transactions. Concerned the spaces that have been taken into the tenancy, at the time of the registration of contracts for the tenancy they did not realize any activity.

3. As a result of the transaction were ensured active supermarkets for consumers by maintaining the open shops in those areas.

In conclusion, this transaction does not involve a taking control of the company (Y) by the company (X), and it ca not be treated as an operation of economic concentration.

4. Conclusions

For the analysis of market changes such as economic concentrations, a major importance is the responsibility of the identification of the relevant market and determining the concentration of the market. Market competition distortion as a result of these operations may cause major damage and their effects will also have an impact over the consumer.

An analysis of the special features of each transaction is important in order to identify the prevailing of the consolidation of the market power effects over the benefits of the consumer.

The use of instruments for the analysis of the market facilitates the presentation of the actual situation on the market analysis and helps to determine possible effects that may occur as a result of the transactions on the market.

The SSNIP test and the HH index are the basic tools used by the US and the EU to the analysis of the economic concentrations. The information provided in the result of applying these tools are complex, and are able to indicate on the situations with risk for the development of a normal competitive business environment.

Any change which takes place on the market is reflecting on to the final consumer in positive or negative way. Economic concentrations may also have different effects, or in the case of small concentrations they may also do not create any effect in relation to the competitive environment or of the final consumer. The complex analysis in the case of economic concentrations has the objective to identify the size of the impact of the concentration on the market, and dynamic which reflect it. A positive dynamic on the market reflected toward the benefit of the consumer is accepted even in the case of the considerable modifications on the competitive plan. But those concentrations which create negative effects both the competitive environment and the final consumer, are able to create damages to the whole economic environment and requires prevent.

5. References

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