Antitrust, Mergers, State Aid and Consumer policy under the same umbrella- does a political compromise prevails to expert approach?

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Abstract:

The aim of this contribution is to provide critical view on different challenges in broader competition law and policy with specific regard to institutional capacities of authorities being in charge of competition protection, either in competition law enforcement or in advocacy activities. The paper further elaborates on different challenges with regard to introduction and protection of competition law and policy as well as different competences of competition authorities on one hand and sector regulators on the other hand, nevertheless having in mind the expected common result, more competitive environment, leading to efficient economy and consumers' benefit. The benefits of efficient competition law and policy are sometimes not properly recognized and Proper understanding of protected category under the competition law and policy still remains a specific challenge and sometimes less efficient system of competition and consumer protection as desired and necessary The paper does not provide for specific suggestions how relevant authorities could be organized; nevertheless some specific challenges are highlighted, some of them perhaps in a provocative way, especially with regard to the question what is a protected category under the competition law and policy and the functional independence of the authorities concerned.

Key words: competition, state aid, antitrust, mergers, consumers, institutional capacities, infringements, protection

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1. Introduction

This contribution discusses complementarities and tensions between competition policies and consumer protection policies, with sometimes reasonably critical view on different ideas on organizing so different policies, as competition (antitrust and merger control), state aid and consumer protection policies under the same umbrella.

The focal point of efficient organization of any and all authorities should be to reach the best possible result, that could be identified as efficient implementation for the sake of public interest, using necessary however not excessive funds.

This contribution will try to elaborate briefly different models, specific advantages of the authorities that are competent over one or more policies, with specific regard to either functional independence and real autonomy, or to political influence that may affect the level of expertize in the authorities being exposed to political pressure.

The contribution has no intention to suggest or propose one or another model of institutional organization; the aim of this contribution is to identify different challenges as seen by the author, having a relevant practical experience in different jurisdictions.

Establishing an efficient organizational system of each authority, especially the ones that may be identified as reasonable new, like the authorities being in charge of competition law and policy, state aid control and consumer policy of what? is, or at least should be, basic goal of each and every country, for the sake of political and economic stability, national competitiveness, economic growth and benefits of citizens.

A functioning market economy cannot be exist without efficient competition. Transparent, user-friendly and non-discriminatory legal framework, credible institutions and implementation represent the basic preconditions for an efficient competition. Having in mind the Treaty of Rome, it can be observed that the main principles of competition and the substantial provisions that identify the competition philosophy and the competition protection have remained unchanged. The numbering of the “famous” five articles, i.e. stipulations with regard to national monopolies of a commercial character, restrictive agreements, abuse of a dominant position, granted special and exclusive rights and state aid, covering the broad field of competition, has changed few times, the substantial stipulations however have remained unchanged.

Almost all jurisdictions all over the world have included the provisions similar to the ones previously mentioned; in the broader European area the substantial provisions equal to the EU Competition Acquis can be found in all jurisdictions. That provides for important transparency and also, especially when the competent authorities publish their decisions, legal predictability.

Mentioning a task to publish decisions, it is worth noting that the enforcement records of the competent authorities show the orientation, the priorities and the enforcement abilities of such authorities. The more antitrust cases are dealt with, the more competent the competition authority is considered to be by the professional society, international partners and the stakeholders that have the interest for efficient competition in the market. If the enforcement record to high extent or almost exclusively consists of merger control it can be considered that there are either different

priorities than the fight against cartels and abuses of dominance or insufficient human and financial resources in such authority concerned, or perhaps incentives built in the notification fees, increasing cash inflow to the authority.

Merger control is of course not something that is not necessary, nevertheless its importance is sometimes overestimated and the focus on potential competition harms in form of mergers may be wrong, especially when the fight against traditional breaching of competition like e.g. cartels and abuses of dominant position are not given the proper importance. It can be understood, however not supported, that (especially) in small competition authorities the human and financial resources are limited and such authorities do not dispose with sufficient resources to tackle demanding antitrust cases that need to be analysed with sophisticated techniques and being exposed to strong economic and legal teams of the companies under investigation, whereas in merger control the merging companies are very keen to provide all necessary data in order to have the merger cleared in a short time. Although also merger control provides for introduction of economic analysis, relevant market definition and potential harm estimation, that is not enough; the basic goal of competition protection is detection of infringements and that is not an easy task. Special know-how is an absolute must, including special knowledge of investigative techniques, using of specific economic and econometric analysis, IT forensics etc.

Institutional capacities represent an important element for the implementation, either in form of the competition law enforcement or in form of competition advocacy that represents an important thought sometimes overlooked element for higher level of competition culture.

2. Institutional capacities

Although the competition authorities should be granted the sole competence for competition protection, there are other institutions that have a very significant role in providing the conditions for efficient competition on the market. Sector regulators which have a significant role in either providing conditions for competition for the market and on the market are sometimes not exposed to critical analysis with regard to their positive (and sometimes negative) influence on efficient competition. In some industries (sectors) especially the ones that are either dependent on infrastructure or being open for competition and/or privatization just recently the competitive pressure may not be as strong as on the markets which have been open for competition for years.

Situation in (especially) infrastructural sectors and also in sectors or in markets where national monopolies of a commercial character exist(ed) and/or exclusive and special righty are granted can be considered not to be in favour of efficient competition and competitive market economy.

It is very important to identify the rules of the game on the market and potential obstacles for efficient competition and then to decide what institutional capacities, either general or specialized, are needed in order to provide for conditions that are necessary for competitive market.

The first element is to have a transparent and non-discriminatory legal framework that provides for level-playing field. Having in mind the legal framework sometimes a basic mistake may appear when considering that competition framework in narrow sense i.e. antitrust, merger control, granted special and exclusive rights and state aid is enough.

Sector legislation i.e. especially, however not exclusively in the sectors being dependent on infrastructure, financial services etc. represents an important element for either opening the relevant markets for competition or to prevent such markets from competition. One of the important elements of such legislation is to precisely determine the scope and level of competence as well as accountability of sector regulators in order to provide the necessary elements for efficient regulation on one hand and not to allow selective negative approach of regulators on the other hand.

Providing some sort of competence with regard to competition control to sector regulators means a specific advantage of these sectors in comparison with other sectors.

In some countries like Italy, Croatia, Serbia etc. in the past the Central banks had the competence over competition control in these countries; to certain extent, especially with regard to fines, sectors like banking etc. were in more favourable conditions than all other sectors. Typical example for such differentiated approach can be seen in Serbia wher the Central Bank could impose much lower fines than the Competition Commission for the same kind of infringement. Having in mind the *ne bis in idem* rule, the banks and insurance companies may wish to be fined by the Central bank and not by the Competition Commission.

It is very important to take into account that a development of a specific sector and/or specific company cannot be identified as a public interest; a development of a national economy and its competitiveness should always be identified as a public interest and international competitiveness of a "national champion" cannot be an excuse for non-competitive environment on a domestic market. Incumbents anyhow have a historically privileged position on the market all institutions i.e. sector regulators, competition authorities and the courts should pay a specific attention to this regard.

Although economy of scale and scope is a very important issue, the creation and support of "national champions" referring to international competitiveness of such undertakings and economy of scale and scope cannot be an excuse for monopolization of a domestic market or for a privileged treatment of "national champions".

When talking about competition and its protection a special attention should be given to the courts and the scope of their authority thereto. Judicial review in competition cases is a very important element for two reasons – it provides a very clear indication of whether the decisions of the competition authorities on merits and sanctions are correct on one hand and on the other hand with the transparency it provides for a legal predictability) on the other hand and thus may represent an incentive for effective leniency program, of course having in mind that the competition authorities issue decisions with rigorous fines, having deterrent effect.

Transparency of enforcement in the mode of publication of non-confidential versions of decisions is a must for both competition authorities as well as the courts. Such transparency

provides for very clear understanding of the policies of the authorities concerned, as well as a kind of a guidance how to define relevant markets, how to apply different instruments of the competition law, like leniency, direct settlement, commitments etc.

Besides judicial review the courts have another, very important, role in the competition law enforcement.

Private enforcement is an efficient model which undertakings suffering damages from competition infringements may choose, however in the EU save the UK the cases of private enforcement are still quite rare. There are different reasons for such situation; on one hand the awareness of all possibilities that competition law can provide is still on a low level and the courts are in some jurisdictions still not providing the quality of their decisions that is desired and absolutely necessary. That might be due to the fact that competition law has been fully introduced in a lot of jurisdictions in early nineties of the past century and that the courts, if not specialized like the European Court of Justice, the Competition Appeal Tribunal in the UK , still need some time to get familiar with very specific infringements that cause significant economic harm. Legalistic approach is neither an advantage nor the future development that would lead to efficient judicial review on one hand nor to more active approach of both, undertakings on the market on one hand and the courts on the other hand. Public awareness about the benefits of a competition law and policy and especially about credible institutions still needs to be raised, on a daily basis, and that applies to all institutions – competition authorities, sector regulators and the courts. In some jurisdictions, especially in the Western Balkans, the administrative courts are given the competence for the judicial review in competition cases. That is perhaps due to wrong understanding that competition authorities are administrative bodies and that the administrative court judges are properly qualified for such review. The question whether such understanding is the best possible one remains open, nevertheless it should be pointed out that judicial review should be much more focused on the merits, on type of infringements and economic harm and not on potential procedural mistakes (almost only).

Competition authorities are *sui generis* institutions, much more »quasi courts« than administrative bodies and the decisions on the merits cannot be estimated as administrative decisions.
In administrative disputes the administrative bodies decide about the rights of the parties; in the antitrust judicial reviews the courts bring either decisions on the merits or decisions on procedural mistakes, nevertheless the challenged decisions of the competition authorities are always based on infringements that the parties may be accountable for.

The decisions of the competition authorities on the merits are therefore not decisions about the rights of the parties, on the contrary, the decisions are based on infringements; to be more precise – the competition authorities do not decide about the rights of the parties, they are entitled to bring decisions if the parties breach the law. Another important element that may make the competence of the Administrative courts for the judicial review of competition authorities' decisions

questionable, is the competence of the competition authorities to impose fines – such decisions, based on the decisions on the merits, are not administrative decisions at all.

An additional reason why the administrative courts cannot be the best placed institutions for judicial reviews in competition cases can be found in the level of fines that are as per rule set up to 10 percent of the annual turnover, what exceeds the level of fines that are prescribed in specialized laws regarding criminal liability of legal persons. Typical prove for such statement can be found in the Menarini judgment in which the court identified that the decision of the relevant competition authority (Autorita Garante della Concorenza e del Mercato – Italian competition authority) should be, because of the level of fine that exceeded the fine as stipulated by the relevant criminal code for such infringements, was brought in the procedure that should have all elements of the criminal procedure, what is not the case in the administrative procedure, where the procedural standards and thus the rights of the party against which the procedure was commenced, are significantly lower.

Having in mind high procedural standards the parties in the procedure should be granted, it should always been taken into account that some decisions in not really transparent jurisdictions may be also treated as infringement of the Article 6 of the European Convention on Human Rights.

3. Competition authorities – what is a protected category

As already mentioned, competition law and policy is a quite new category in all SEE jurisdictions. Following early understandings of how markets work, having in mind especially Lex Mercatoria and Adam Smith with the recognition of potential anticompetitive behaviour, the first institution, US Federal Trade Commission, was established in 1914 and the Treaty of Rome which introduced the five competition rules was signed 60 years ago on 25 March 1957. Having in mind these facts it is not strange that there are different wrong understandings who should be protected by the competition law.

There is a wrong understanding that consumers should be protected under the competition law. Although the incumbent Competition Commissioner Margrethe Vestager very clearly and correctly said that "competition is a consumer issue" at BEUC General Assembly on 13 May 2016. The former Competition Commissioner Mario Monti said "consumers in Europe expect, need and deserve a strong and ambitious competition policy" at the International Cartel Conference in Berlin in 2000, however it cannot and may not be understood that the competition law and policy exist for the sake of consumers' benefits only, usually identified as better choice and better price/quality ratio. It should be understood as the vision that also consumer benefits should be taken into account, too. It is clear that consumers are not directly protects by the competition law and policy. Consumers benefit from an efficient competition that is achieved by efficient competition law and policy, nevertheless they are legally protected under the comprehensive general civil legal

framework. It is even an open question to what extent the consumers need a specific law on consumer protection if they are properly protected by the general, non-specific legal framework. Much more important is that consumers are properly informed about their rights, about the possibilities that the general legal framework provides for. If consumers are properly informed, then we can expect that the consumers will not be regarded as average consumers, exposed to consumer frauds etc., but as reasonable consumers, knowing their rights and being able to protect their rights. With regard to effects that competition law and policy may have on consumers' benefits it is needless to say that consumer will benefit if competition authorities, sector regulators and courts will be able to perform efficient enforcement. If consumers need a specific legal framework with regard to competition law and policy it is worth considering to introduce (if it has not been introduced yet) possibilities of class actions (collective redress) in the private enforcement of the competition law – such introduction will provide consumers better chances to recover from damages from competition infringements if competition in breached.

Another common misunderstanding is that competition law and policy should protect competitors. Again, competition law and policy cannot protect one or more competitors on the market; competitors, undertakings should have the best conditions on the market and enjoy full support to their business activities when to conditions are fulfilled – to have transparent and non-discriminatory legal framework that provides for a level-playing field and institutions that perform efficient enforcement. Both dilemmas with regard to consumers' benefits (and not protection) and the competitors' lawful interests addressed the former Competition Commissioner Mario Monti with his famous saying that the European Commission and all national competition authorities should perform "consumer oriented competition policy" and that all jurisdictions should provide for level-playing field for all market participants. The efficient competition should be protected by the competition law and policy and that should be done by fighting cartels and abuses of dominance and by prohibiting mergers that would significantly impede effective competition.

4. How should competition authorities be organized – do we know the answer?

There is no "one size fits all" rule. Competition authorities and other institutions, like authorities that are in charge of antitrust, merger control, state aid (monitoring), sector regulation, consumer policy, trade defence instruments etc, clearly identified as guardians of public interest, may be organized in different ways according to the size and development, both economic and institutional, depending on the jurisdictions concerned. There are no detailed rules how the institutions should be organized, nevertheless there is a very simple rule that should always be respected – all institutions should be granted functional independence and should in no way be exposed to political influence.

There are different conditions to provide functional independence, however two of them are inevitable to grant that kind of independence and thus reasonable level of autonomy.

First, the authorities should have the competence to issue final decisions, being exposed to judicial review only. Any kind of administrative review significantly jeopardizes functional independence.

Second, the authorities should have the right to decide on the necessary financial and human resources by themselves. Limited resources directly affect the enforcement record and the level of expertize.

Easy to say, even to stipulate in the legal framework, not that easy to provide it in practice. Judiciary has a specific position and is not subject to the comments regarding autonomy and independence in this paper.

For other institutions, like competition authorities and sector regulators the question of independence and accountability remains a special challenge to be discussed. The majority of competition authorities are formally independent, their management appointed in different ways, either by parliament, executive government, president etc. for a specific, mostly renewable period of time. In competition laws the conditions for extraordinary dismissal are quite similar and in accordance with the general legal system(s), nevertheless there are different ways how to breach the spirit of the regulation and abuse the extraordinary dismissal instrument. One of the models is to amend the competition law for some other reasons like more precise elaboration of procedural rules, alignment with the EU Acquis or including the provisions that would on *prima facie* seem as useful upgrading of the current legal system. If in such cases the transitional provisions do not provide for the current management of the respective authority to retain the current term of office by the end of the given mandate, then it is obvious that such kind of model represents a typical political influence over appointments.

More sophisticated model how to negatively influence the independence of the institutions is the limitation of financial resources. If the authorities are not provided with sufficient financial resources, they cannot afford to recruit and train the experts that are absolutely needed for efficient enforcement.

The staff of competition authorities and sector regulators can provide their service on high professional level only when such experts are properly trained and stimulated.

(De)stimulating such experts that must have specific interdisciplinary knowledge with by equalizing them with administrators that are engaged with "classic" administrative tasks is the perfect way for high turnover of the staff and thus weakening of the institutions. If the human resources, are not sufficient then the enforcement records are hardly credible and then we can ask ourselves whether the philosophy of the EU Competition Commissioners can be really implemented in practice. In small jurisdictions and in jurisdictions that have just recently started with the sound competition law and policy the challenge how to recruit, train and especially retain the experts that are scarce is high and sometimes even not in interest of the partisan politics and political horse trading.

If there would be a proper political consensus, the competition institutions should be provided with sufficient financial resources in order to provide for credible enforcement and a sound competition advocacy. Competition advocacy is very important as it provides relevant

information for the authorities how to ensure conditions for competitive market, level playing field and how to prevent from state (government) induced competition distortions. Especially in small jurisdictions and the ones that had just recently introduced market economy and the competition law and policy the need for competition advocacy to all stakeholders that are granted competence to be either lawmakers or having executive powers for legal implementation is very important, as well as the ability to provide awareness raising activities in order to raise the level of competition (and general legal) culture. The short overview of enforcement records of the competition authorities shows whether an authority has set the proper priorities and/or whether such authority disposes with sufficient human and financial resources.

Another challenge, especially in the EU candidate countries, is what competence should competition authorities be granted to. Should such authorities have the competence for antitrust and merger control only, should they also be in charge of state aid monitoring, should they focus on consumer protection, too, should all sector regulators be merged under one institution etc.

A lot of questions (challenges) and a lot of potentially correct answers.

5. Antitrust, state aid and consumer protection under one umbrella?

Following the model of the DG Competition of the European Commission, the authorities in some jurisdictions, especially in some current candidate countries, have been granted the competence over antitrust, merger control and state aid monitoring. The question is whether such model is good or not. There are some reasons *pro and contra* for such model as well as for different models available.

European Commission is the guardian of the internal market, with no borders, (however some limits, especially with regard to free movement of labour-force, still exist), level-playing field, common trade and competition policy etc. It is logical and inevitable that the EU has a monopoly over state aid control, otherwise the conditions on the internal market would be distorted as it cannot be expected in advance that all member states would provide for the same standards regarding state aids for different reasons – having in mind the political stability social compromises and (potentially) better results at elections on state and local level.

Of course, the EU member states are not prohibited to provide state aids, however according to the rules and under the strict control of the EU (DG Competition.

EU member states do have the right to design and implement their state aid policy, nevertheless having the burden of responsibility, although there is a feeling that the state aid grantors sometimes do not really care or do not have enough related knowledge thereto, for a transparent, non-discriminatory state aid policy, with all potential negative consequences.

The authorities, state aid grantors, should have in mind that the undertakings that have been granted the state aid (especially if unlawful – mostly for political reasons, also for buying social peace, especially when granting operational aids), should recover such aid or going bankrupt, like i.e. British Aerospace and /or Rover.

The grantors also bear special responsibilities to citizens, as they contribute to the budget and the unlawfully given state aid funds should be used in a proper way to mutual benefit.

It should be taken into account that other undertakings which are not granted the same chance, are not being granted the same state of play, because state aid represents a competitive advantage.

In order to provide the common, transparent and efficient state aid policy and its control, the competence is given exclusively to the European Commission to avoid conflict of interests and political economy pitfalls..

The question is whether the national competition authorities are the best placed authorities for the control of state aid.

Some specific challenges with regard to human and financial resources as well as (potential) political influence were pointed out in the text. However, these specific challenges appear already when the competition authorities implement their tasks in the field of antitrust and merger control, when the parties in the procedures are undertakings, being active on the market, and not the state authorities. Can we imagine what would happen (in the context of available human and financial resources) if the competition authority would constantly warn the "master of their financial (and subsequently human) resources" of what is correct and what not.

A very sensitive question of state aid induced distortions of competition is not elaborated in this specific contribution, however the non-transparent and unlawful state aid policy is in fact a state induced distortion of competition.

Competition authorities should provide expert approach to competition distortion, without any political influence. Deciding about competition infringements and the related fines are strictly expert decisions. Deciding about mergers ishould also be strictly expert decision that should not be exposed to any political influence. If the undertakings concerned are not happy with the decision and if they feel that their rights were harmed, the judicial review is always on disposal. If there is a mistake by a competition authority, the courts can bring decision that would recover (potential) harm to undertaking(s) concerned.

Even in in Germany where the Federal Minister of Economy can challenge the decision (prohibition of a merger) of the Bundeskartellamt (German Federal Cartel Authority) it can be done only in the court procedure on the basis of the proved public interest (very limited choice of economic and social policy elements) and it is no way a "classic" over-ruling. The same model follows Spain with the competition Law as of 2007.

The situation with the state aid monitoring is a bit more complicated. The monitoring institution has to be the guardian of the state aid rules and has to have the power to inform the state aid grantors how to design and implement the state aid policy and also should have the power not just to inform, but also to block the decisions of the state on different levels. That kind of decision has a political dimension and if state aid monitoring and "classic competition" are organized under the same authority, it is always an open question whether the political influence, based on different interests regarding state aid policy are spread also to the antitrust and merger control enforcement.

Decisions in antitrust cases are primarily expert decisions, the influence of politics) is rare and usually does not represent any major influence on decisions. It may be estimated that a bit more political influence may appear in cases of merger control, however it is always an open question how strict merger control should be, having in mind dynamics of the markets, especially in the economies in transition, opening the borders just recently.

State aid policy and implementation (granting, monitoring, evaluation, recovery) however represents a specific challenge. It is always in focus of daily policies for different reasons – buying social peace, ensuring better starting positions for elections on state and local levels, using the public funds for separate (sometimes strictly individual) interests represents a very specific challenge and obstacle for a sound, transparent and non-discriminatory approach.

Regarding state aid policy and implementation and the control as well, the political interests and influence will be present all the time, sometimes less intensive, sometimes with direct influence to specific decisions.

The political influence with regard to state aid may most probably not be avoided. Putting two antitrust (and merger control) in the same authority with the state aid control may lead to political influence and direct affects on expert decisions in antitrust and merger controls fields, too.

There is another issue that should be mentioned. The sole competence for the state aid control is granted to DG Competition in the European Union. The EU member states don't have any decisive (control) power thereto.

It is more convenient to have separate authorities, as the one (antitrust and merger control) will proceed with the operation also after the EU accession, whereas the other (state aid control) will have to be reorganized into the contact point only.

It was already mentioned what kind of problems competition authorities have in antitrust cases regarding data collection. The competition authorities may ask for the data, may even impose procedural fines if the data are not submitted on time, however the best overview of the relevant data have the ministries, being in charge of either granting the aids and/or financial transfers and the ministry responsible for finance.

The idea of having an inter-ministerial commission for state aid control is perhaps much better idea than to include the state aid monitoring it into the competition authorities, for at least three reasons: (1) such commission would include representatives from different sectors (state aid grantors) and other institutions that should have the interest for transparent state aid policy (having influence on market structure, competition and macroeconomic policy), as well as ministry in charge of finance, where all relevant data are controlled, and (2) such commission should have only administrative support by the ministry responsible for finance, which should not have the prevailing influence, and (3) the decisions of the commission could be subject to "gold anchor", effectively a veto right, granted (if ever) to the representative of the competition authority and/or representative of the institution in charge of macroeconomic policy and development.

Another important element not in favor of having the state aid control in the competition authority is the fact that after the EU accession the competence over the state aid control will be

in the European Commission and in the new member state the coordination unit, for coordination and transferring the data, should be placed in the institution that has the best overview over relevant data and additional very important element - according to the EU Progress Reports for all candidates the field of antitrust is not as critically observed and evaluated as the field of state aid; this however means that the focus will be on state aid and having in mind all challenges with scarce human and financial resources in the field of antitrust, the state aid policy will represent a top priority and antitrust enforcement will suffer accordingly.

If state aid policy is a very detailed and clear element of comprehensive economic policy, consumer protection represents a different category. As already briefly elaborated it is a question what we understand under the term consumer protection – is it a protection from consumer frauds, is it a policy of comprehensive information of consumers and of course the question who should do it.

The state administration has a firm obligation to adopt and implement the laws that would not harm consumers. There are different institutions, like inspections: market surveillance inspectorates authorities, Phytosanitary inspectorates etc. that have the task to control the market circumstances in order to provide consumers with required standards. Competition authorities, if they are efficient in their enforcement, provide consumers better choice and better price/quality ratio as a result of efficient competition on the market.

What kind of additional protection to the one as originally provided by the general legal framework and credible enforcement of institutions concerned is still needed? And whom to protect consumers from?

The state institutions, relevant authorities should provide their services in public interest, having in mind that they are financed from the budget, that they should always have in mind that the taxpayers, and in broader sense consumers provide the financial resources for their operations. The fact is that if the consumers' rights are not respected or even infringed the general civil framework is there to provide the rules and the courts are there to provide the protection.

The role of consumers' organizations is very important in providing proper information in order to upgrade average consumers to reasonable consumers.

It is an open question what kind of consumer is in our focal interest – an average consumer or a reasonable consumer. Reasonable consumer is a properly informed consumer, knowing her/his rights and the consumer policy can be a subject of different models, nevertheless the combination of different policies with different goals under the same umbrella, having in mind that some policies have just recently been introduced, may not always bring to desired (if quantified at all) results.

6. Concluding remarks

There are different models of implementation of different policies. Even for antitrust and merger control there is not necessary that just one institution in some jurisdictions and the scope

of competence of some institutions may be broad. It is always the question what is the best model and what are the conditions that can be met in order to establish institutions that will provide professional enforcement and advocacy.

It would be wrong to follow cheap populistic approach that it would be less expensive if two or more institutions would merge in order to cut the costs.

Cutting the costs is not the way to introduce efficient institutions. Efficient institutions are not dependent on number of staff, but on the level of the qualification, good management and full independence and that model cannot be considered as a cheap solution.

Without investments (in human resources) good results cannot be expected. Although investments may be considered expensive, it can be said that the most expensive investment is the one you do not have.

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