

## • Romania: The Competition Council sanctions the Romanian Post with € 26 000 000 Fine for Abuse of Dominant Position

On 17 December 2010, the Competition Council sanctioned the Romanian Post for the infringement of Article 6 of the Competition Law no.21/1996 as amended and Article 102 TFEU and imposed a fine of € 26 000 000 as well as appropriate remedies in order to restore competition on the market.

The Competition Council's investigation concerned the Romanian Post's policy of granting tariff rebates in respect of certain postal services. The investigation showed that between 2005 and 2009, the Romanian Post has granted to one of its clients, Infopress Group SA, preferential treatment on the market of the standard postal service of direct mail (also called Infadres service). This abusive behaviour extended also to the market of the postal service for commercial correspondence. At the same time, Romanian Post has granted discriminatory tariff rebates to intermediaries for the standard postal commercial correspondence and Infadres services. The Competition Council concluded on the existence of an abuse of dominance on the relevant markets analysed.

The remedies imposed by the RCC on the Romanian Post foresee on the one hand, an obligation of non discrimination i.e. the application of equivalent contractual conditions for the provision of equivalent services and on the other hand, an obligation of transparency providing for the publication of all the offers of services supplied by the Romanian Post on the relevant market so that all the beneficiaries and potential clients are informed. The decision includes monitoring clauses by RCC.

Specifically, the postal service for commercial correspondence is the service of deferred domestic delivery of correspondence (delivered at the address written by the sender on the envelope), presented at the post offices by intermediaries and other companies. The postal service Infadres concerns the domestic delivery of direct mail.

The Competition Council initiated between 2005 and 2009 four investigations, subsequently joined in a single investigation, concerning alleged abusive behavior by the Romanian Post.

In 2005, following a complaint filed by seven undertakings, the Competition Council launched an investigation into the alleged abuse of dominant position by the Romanian Post on the market of direct mail postal services – Infadres. The complainants were four direct marketing companies (Direct Marketing Group SRL, Hit Mail Romania SRL, Mailers Serv SRL, Open Public Service SRL), two publishing houses (Editura Reader's Digest, Rentrop & Straton Grup de Editură și Consultanță în Afaceri SRL) and one advertising company (Leo Burnett & Target SA).

After the launch of this investigation, in the same year, a new complaint concerning the abusive behaviour of the Romanian Post was filed with the Competition Council by ten companies (the seven companies that had signed the first complaint were joined by the publishing houses Eurocor IECC Srl, International Masters Publishers SRL, Prietenii Cărții SRL). The second complaint concerned behaviour similar to those covered by the first investigation.

In 2006, SC Mailers Serv SRL filed a complaint to the Competition Council on the alleged abuse of dominant position by the Romanian Post, by having offered to SC Infopress SA (a competitor of Mailers) more favourable contractual conditions for equivalent services rendered.

In 2009, the Competition Authority opened an ex-officio investigation into the alleged abuse of dominant position by the Romanian Post on the market of Infadres services and on the market of the postal service for commercial correspondence, by the application between 2008 and 2009 of a discriminatory policy of granting tariff rebates.

See further: [http://www.consiliulconcurentei.ro/documente/Decizia%20nr52%20din%2016122010%20publicare\\_19441ro.pdf](http://www.consiliulconcurentei.ro/documente/Decizia%20nr52%20din%2016122010%20publicare_19441ro.pdf)