• Italy: Advocacy Intervention of the Italian Competition Authority concerning Competition Reform Proposals

On 5 January 2012, the Italian competition authority (ICA) provided the government and the parliament with a report advocating the adoption of a number of pro-competitive measures to increase competitiveness of the main sectors of the Italian economy and to reform the regulations concerned in order to remove the remaining obstacles to market liberalization and promoting competition. The ICA highlighted the likely positive impact on GDP of initiatives to make the provision of goods and services more competitive, particularly if the latter are important inputs in the production of exported goods.

The ICA’s opinion focuses in the first place on the local public services sector, which has a key role to play in the measures to return the Italian economy to growth, in view of its considerable economic importance. In Italy, the provision of these services is often monopolistic, with either an in house provider or a private or public concessionaire. However, not all these markets are natural monopolies. Therefore the ICA suggests that public authorities should not be allowed to give an exclusive concession for the provision of services unless they have verified, through a market analysis, that the services cannot be provided under competitive conditions. Moreover, producing such services in house should be allowed only when the market analysis shows that this can yield clear and direct benefits when compared with the award of the operation of the services by competitive tendering.

The ICA also made a number of suggestions regarding “private” services, the most important of which concern the abolition of minimum tariffs in liberal professions.

Other important suggestions put forward by the ICA concern the following sectors:

- The fuel distribution network, which, in the ICA’s opinion, should go through an efficiency based rationalization process. To this end, incisive measures should be introduced in order to reduce the number of existing outlets (facilitating the exit of the least efficient petrol stations) and to eliminate the obstacles to the entry of new not vertically integrated operators (unbranded and supermarket petrol stations);

- The supply of natural gas, for which the ICA underlined the need to adopt an approach leading in the medium term to the proprietary unbundling of the transport network and storage infrastructure, controlled at present by the incumbent Eni S.p.A.;

- The wholesale marketing of electricity, where, according to the ICA, completing the plans for strengthening the Italian transmission network by Terna S.p.A. is a top priority goal not only to ensure the security of the system but also to promote competition;

- The retail sale of electricity and gas, for which the ICA considered that the protective regimes currently in place should be progressively abandoned and/or restricted to truly vulnerable users (i.e. households), so that the prices for other types of users could be set by market forces;

- The transport sector, in respect of which the ICA hopes that the Transport Regulatory Authority would be made operational in a short time frame, so as to ensure proper access to all transport infrastructure and provide non-discriminatory tariff-setting methods, aimed at reducing costs and improving efficiency and, above all, would be capable of incentivising investment;

- The postal sector, in which the issue of limiting the perimeter of the universal service, so as to encompass only the essential services which users would otherwise be unable to purchase, has been raised. The specification of such services should be left to the competent regulatory authority (the Communications Regulatory Authority), which should as well be assigned explicit powers concerning the setting of conditions for competitors to access the dominant operator’s postal network;

- The banking and financial markets, for which the ICA identified several pro-competitive measures, among which the following concerned payment systems: i) the exclusion of the role of payment services providers in determining sensitive variables, such as interbank fees, ii) the removal of the ban on merchants’ discriminating between alternative electronic payment instruments, iii) the prohibition of acquiring banks from applying the same merchant fee for the acceptance of payment cards issued by different networks (so-called blending).

To date, a number of indications to foster competition in specific markets that the ICA put forward in its advocacy report have been taken on board by the recently issued government decree concerning liberalization (Law-decree n. 1 of 24 January 2012).

See press release (in English)