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Editorial - Competition Law and Policy in Times of Crisis and Economic Change

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The years following the international financial crisis that apparently reached its peak between 2007 and 2009 have been troubled times in terms of competition law and policy, raising numerous issues about the near and medium term future of antitrust. The effective and potential impact of the crisis in the field of competition has not only to do with the particularly serious nature of the economic imbalances generated[1] – comparable to the ones experienced in the thirties of the twentieth century – but also with the duration and protracted nature of that crisis. In fact, the 2007-2009 financial crisis has lasted to this day as a consecutive economic crisis, involving, in the EU, a crisis of sovereign debt markets intertwined with the crisis of the banking sector[2] and, in the US, persistent high levels of unemployment and slow growth.

Given the sheer magnitude of the effects of this international crisis – widely felt by economic operators and citizens in general, either as taxpayers supporting multiple bail-outs of financial institutions or under the form of unemployment or severe loss of income and social benefits – the crisis is bound to produce at least two kinds of repercussions. At a broader level, considering that competition law largely corresponds to a body of law intrinsically connected with the basic fabric of market economy (competition rules ensure the competitive functioning of markets, regardless of the way the main goals attached to the preservation of competitive interactions in the markets may be perceived), major disruptions of the markets – comprehending initially financial markets, with the financial system almost experiencing a meltdown in 2008, but quickly spilling over to the so called 'real economy'– are bound to call into question the core grounds of competition law and policy. Various economists have duly emphasized that this crisis somehow "falsified the Efficient Market Hypothesis", since it was generated by "internal developments" within the financial markets, "not by external shocks" (calling in overall terms for the development of a "new economic thinking" that would

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1 Rogoff and Reinhart have duly pointed out that specificity of the current crisis in contrast with other recent crises. See *This Time Is Different: Eight Centuries of Financial Folly*, Carmen M. Reinhart & Kenneth S. Rogoff, Princeton University Press, 2011

2 This on these intertwined crises (banking crisis and sovereign debt crisis), Nicolas Véron, *The Challenges of Europe's Fourfold Union*, Bruegel Policy Contribution, August 2012.

review some of the fundamentals for understanding the functioning of market economies).[3] Accordingly, at this level, we may consider a cultural and overall theoretical challenge to which this body of law and public policy is being subject.

At a second and more limited level, we may consider potential repercussions of the financial crisis and of its lasting effects in terms of competition law enforcement.

Bearing in mind these different levels at which major repercussions of the financial crisis may be felt in the area of antitrust, two fundamental questions may be envisaged, placing competition law and policy at a critical crossroad:

(i) Given the extent, structural nature and duration of the crisis, will the rapid and powerful expansion of competition law and policy in the two decades preceding the crisis be followed – as provocatively asked by Mario Monti by a 'Competition Night',[4] or, one might also ask, in a more benign fashion, by a 'Competition Dawn'?

(ii) Will it be foreseeable that, after the apparent wider consensus on the benefits of competition law and policy of the latest two decades (for the economy in general and consumers), leading to an expansion of competition rules worldwide (as reflected by ICN – International Competition Network), we may experiment an abrupt paradigm shift which will downplay competition policy**,** or, at least, experience some limited changes of the evolutionary stage of competition policy within the two reference models of US antitrust policy and EU competition policy?

It should be added that, in attempting to provide adequate answers for these questions it will be of paramount importance to properly identify the chief causes of the financial crisis in order to prevent the adoption of policies in a collision course with competition policy, on the basis of a supposed general market failure, or to prevent policy options that drastically relax competition, as it happened in the US in the 1930s.

The papers published in this special issue provide an important analytical contribution to the debate in this domain and, together with discussions held in other scientific *fora*, start paving the way to answer the aforementioned crucial questions as regards the current state and prospects of competition law and policy in the wake of the crisis. Furthermore, those papers provide a wider picture in this domain, covering not only potential changes and evolutions at the level of EU competition law (on which the papers of Arianna Andreangeli and of Gianni Lo Schiavo are focused), but also at the level of US antitrust law (largely considered in the paper of Miguel Moura e Silva), and going all the way to cover the role and impact of competition policy in the context of major changes of economies in transition that may call for a broader set of objectives

[3] On these issues, and on that critical economic approach in the wake of the crisis see George Soros, *Anatomy of Crisis – The Living History of the Last 30 Years: Economic Theory, Politics and Policy*, Speech at INET Conference, King's College, April 8-11, 2010. See also other analytical contributions for this inaugural Conference of the Institute for New Economic Thinking - INET - http://ineteconomics.org/ - of April 2010, as, *e.g.*, the presentations of Adair Turner, Joseph Stiglitz or Simon Johnson.

[4] Quoting this provocative question of Mario Monti at a *Competition Day Conference*, see Peter Freeman, "Competition Night?", Foreword, in Concurrences, N.1-2009.

of competition law, as suggestively discussed, on the basis of the case-study of Turkey and Turkish competition law, in the paper of Gul Gok.

The paper by Arianna Andreangeli comprehends a very thorough and well researched critical review of the impact of the financial crisis in the enforcement of EU competition law, with a greater emphasis on the way the Commission, as main competition watchdog in the EU, coped with the exceptional situation experienced from 2007 until the present (and discussing prospects for the near future as well). Andreangeli clearly identifies different and successive stages in the reaction of the Commission, starting with a 'wait and see' approach during 2007-2008, as the financial crisis unfolded, until the 'water-shed' moment of the Autumn of 2008 in the wake of the Lehman Brothers bankruptcy, which lead to a renewed resolve of the Commission to tackle the exceptional challenges raised by the financial crisis in the field of competition law, that has lasted until the present time (given the persistence of a widespread situation of financial fragility within the EU, to quote here the precise terms of the characterization envisaged by the European Central Bank, as another central player in this exceptional context).

On this basis, and within this timeframe, Andreangeli's paper critically assesses which of the 'traditional' antitrust tools the Commission deployed to tackle the challenges of crisis, examines the way it applied the state aid regime to cope with the needs of a massive public intervention in financial institutions - duly justified by the acknowledgement in the post-Lehman moment of the systemic nature of the crisis - and also goes on to review the stance adopted by the Commission in the field of merger control (in order to better deal with the restructuring of key areas in response to credit squeeze or meltdown).

On the whole, this rather thorough analysis leads the author to conclude that after an initial passivity, the Commission, as the crisis unfolded and gained momentum in Europe (with systemic risk and potential contagion effect quickly expanding in the financial sector at the end of 2008 and thereby spilling over to the 'real economy'), was able to find suitable responses oriented towards ensuring that competition rules would be enforced in a way that maintained the unity and integrity of the internal market in a time of dangerous challenges. Particularly noteworthy in that regard, was the adoption of the so called 'Banking Guidelines and of the temporary framework regulating state aid in the banking and financial sector', derogating from the more rigorous approach of the 'Rescue and Restructuring Guidelines' (the core elements of which are characterized in the Andreangeli's paper and are, in turn, extensively described and analyzed in Gianni Lo Schiavo's paper). Also noteworthy, as per Andreangeli's analysis, was the Commission stance in the field of merger control in the wake of "Lloyds TSB" concentration approved by British Authorities on the basis of a public policy exception (related with maintaining financial stability), in view of reconciling the integrity of the core principles governing merger assessment with the demands of assessing concentrations involving 'problematic' firms in a context of exceptional economic instability. Restating in that process the need to function within the analytical boundaries of the failing firm defense, as arising from the Horizontal Merger Guidelines and from the previous case law in this domain, while exploring the degree

of flexibility it may allow to deal with the challenges of extreme financial instability, acknowledging, at the same time, that such flexibility may not provide actual leeway to authorize some of the most problematic concentrations in the banking and financial markets. In connection with this approach on merger control, the paper also emphasizes a rather proactive and flexible use of remedies and commitments in merger cases by the Commission (both in the financial sector cases and in 'real economy' cases).

Finally, given the consolidated track-record of the Commission of clear and vigorous condemnation of cartel behavior, over the latest two decades, Andreangeli also concludes that the Commission maintained a very strict view on 'crisis cartels', which, as an 'old style' tool, does not seem to have been significantly used or accepted in the context of the current crisis (other preferable options for economic rationalization in a time of crisis having been retained in the field of antitrust).

Ultimately, Andreangeli's paper concludes on a rather positive note that competition law in the EU came out of the crisis "largely intact", while acknowledging that a somehow nuanced overall view has to be kept as regards the outcome of competition law enforcement in a time of acute crisis. These nuances having to do with the relative and circumstantial 'accommodation' of competition policy to more concentrated markets and to a persistent difficulty for new entrants to challenge the main competitors in key economic areas that have in some cases survived the crisis with enhanced market power due to the market exit of other players; admitting, at the same time, again on a more positive note, that some of the rather exceptional outcomes deployed to 'manage' the crisis, especially in the financial sector, may be duly reversed overtime through a policy of divestiture of assets and, I would add, of gradual and monitored restructuring of financial institutions that have been beneficiaries of state aid.

This overall positive while nuanced view of Andreangeli on the way EU competition law and policy has surpassed the critical test of meeting the challenges and tensions of the protracted financial crisis contrasts, to some extent, with the more somber view depicted in the paper of Miguel Moura e Silva. Conversely, the fact that this paper covers in parallel the EU and US jurisdictions may somehow contribute to the less positive note apparently underlying it. In fact, Moura e Silva, addressing the problems of the financial sector in the context of the discussion of the main causes of the financial crisis, acknowledges that antitrust does not seem to be one of the culprits of the crisis and that the way antitrust has been applied to financial firms has depended to a significant extent on the specific regulatory framework of the financial sector, but, at the same time, admits that on balance merger policy towards banking has been quite lenient in the US in the latest decades (together with what the author characterizes as a lack of credible efficiency gains in most mega-merger deals in that period). As regards the level of antitrust enforcement in general throughout the financial crisis, this paper while corroborating Andreangeli's view that a tough stance on cartels, with no significant overture to 'crisis cartels', has been kept on both sides of the Atlantic, admits, however doubtfully, some possible worrying signs in terms of enforcement of competition rules to unilateral practices (monopolization in the US and abuse of

dominant position in the EU). Again, a more passive stance in the recent past especially within the context of the US antitrust system may be at stake here, as the author refers to the fact that the Microsoft cases of the nineties and the ensuing controversies somehow obscure "whether there is a slowdown due to a cautious approach adopted by the antitrust authorities or whether there is a retrenchment due to the crisis". On a more indefinite note, it is assumed that only the next (future) steps in terms of enforcement, as new evolutions of the crisis unfold, will clarify where antitrust authorities really stand in the sensitive area of unilateral practices. Albeit the author acknowledges that there are no signs that enforcement in the wake of the crisis is significantly lower than in the past decade; a period which includes the significant restraint or even omission in terms of US antitrust enforcement addressing unilateral practices of the Bush administration, in spite of an apparent and tentative shift in the more recent years of the Obama administration.

One area where the paper shows a more skeptical view about the capacity of competition authorities to withstand potential political pressures arising from the exceptional conditions of the financial crisis is merger control. Again, it could be argued here that such apprehensions might be more oriented towards the US antitrust system, although the paper puts forward examples of merger approvals in both sides of the Atlantic (e.g., "Wells Fargo/Wachovia" in the US or the "BNP Paribas/Fortis" in the EU), in the wake of near-meltdown of the financial sector, that led to "quick-look", very expedited decisions (over which the author professes to feel "some disquiet"). In any case, different types of considerations and conditions seem to be at play here, since we are dealing with different systems of merger control and the expedite nature of the approval taken into consideration in the US has to do with financial regulatory authorizations and not necessarily with antitrust scrutiny of mergers. Conversely, the paper makes a relevant point, both at an explicit and implicit level, as regards some potential trade-offs between financial regulatory objectives (as stability) and strictly antitrust goals, of safeguarding open and competitive markets, in the field of merger control of financial institutions. Those potentially critical issues concern, above all, the crosscurrents between competition law merger control and financial regulatory prudential controls over M&A transactions between financial institutions. A topic to which I shall return in the final part of this Editorial, rather than any specific antitrust approach of a more lenient nature in connection to mergers between those institutions.

Ultimately, the paper seems to adopt a somehow dual stance on the overall repercussions of the financial crisis on antitrust (here to some extent not dissimilar from the one put forward in the concluding remarks of Andreangeli's paper). One the one hand, despite presenting some recent precedents that may represent worrying cases, the author acknowledges that antitrust enforcement does not seem to be seriously weakened in the US and at the EU level. On the other hand, it is submitted that the prolongation of the crisis, especially in the guise of the current sovereign debt crisis, may lead in the near future some EU Member States to constrain or more seriously limit antitrust enforcement. The author seems to attribute predominantly this risk to national antitrust enforcement, in a context in which he somehow emphasizes diverse reactions of the Member States to the crisis. A generalization of those risks to

vigorous or effective antitrust enforcement is apparently envisaged in a prospective scenario of deepening of the crisis and absence of a clear recovery).

Interestingly, the paper also comprehends concluding remarks on the possible contribution of antitrust to prevent further financial crisis, admitting an hypothetical role in that sense at the level of merger policy, but sustaining that such role would be, in the end, a very limited one (due to the difficulty of integrating systemic considerations, of prevention of emergence of 'too big to fail' financial institutions in the parameters of competitive analysis that may justify the prohibition of a merger). There are certainly limitations, as referred in the paper, to the specific input of antitrust to contain or prevent widespread financial crises. In any case, the comprehensive interplay between competition law and policy and (sectoral) regulation and supervision of the financial sector may be globally envisaged under a new light in the wake of the crisis and of the ensuing process of regulatory reform, as will be remarked at the end of this Editorial.

The paper of Gianni Lo Schiavo – the basic content of which has already been mentioned in connection with Andreangeli's paper – deals specifically with the application of the Art 107 TFEU regime of state aid since the outbreak of the financial crisis (2007-2008) up to the present, developing a true 'ad hoc' crisis-related regime for state aid to financial institutions (which was propelled by the systemic nature of the financial crisis, especially in the banking sector).

Accordingly, the paper extensively describes and characterizes the various steps leading to the adoption of a special temporary framework of state aid for financial institutions, exceptionally relying on Art 107(3)(b) TFEU (aid compatible to remedy a serious disturbance to the economy of a Member State),[5] restrictively interpreted and applied prior to 2008, in reaction to the chain of disturbances of various financial institutions in the last quarter of 2008 following the failure of Lehman Brothers (and after a first period of the initial stage of the 'subprime crisis' from September 2007 to September 2008, over which the Commission relied on the traditional approach in the field of state aid under Art 107(3)(c) TFEU). The author also envisages a third stage as regards application of state aid rules to financial institutions approximately from the middle and end of 2011 up to now (and still ongoing), corresponding to a sort of management of the sovereign debt crisis, or, as, as I would prefer to put it, of the twin crises of the banking sector and of sovereign debt mutually feeding a perverse spiral that the Euro Area Summit of 29 June 2012 has purported to break; considering the "imperative to break the vicious circle between banks and sovereigns", stating that "the *Commission will present Proposals on the basis of Article 127(6) for a single supervisory mechanism shortly*" and asking "the Council to consider these Proposals as a matter of urgency by the end of 2012. When an effective single supervisory mechanism is established, involving the ECB, for banks in the euro area the ESM [European Stability Mechanism] could, following a regular decision, have the possibility to recapitalize banks directly." (emphasis added)

[5] A special temporary framework, chiefly including the so called "Banking Communication", "Recapitalization Commission", "Impaired Assets Communication" and "Restructuring Communication".

Attention is given in the paper - in connection with this latest stage - to the tentative establishment and implementation of an exit strategy from the exceptional regime and framework associated with massive and emergency public intervention in financial institutions, contemplating, inter alia, the submission of restructuring plans by banks that had recourse to state support measures (both concerning fundamentally sound banks and distressed ones), and the transition to a new regime for the rescue and restructuring of banks based on Art 107(3)(c) TFEU largely reliant on the experience gained during the financial crisis (thus abandoning an horizontal approach on state aids applicable to the restructuring of both financial institutions and other entities and, conversely, acknowledging the particularities of the banking sector that have been fully evidenced, one could add drastically evidenced, throughout the recent crisis).

In this transitional context, following what may be construed as a still incomplete exit strategy from the temporary framework of massive public financial assistance of 2008-2010, the paper addresses, however unevenly, three crucial and critical challenges for state aid control policy in the financial sector, comprehending (i) the interplay with a crisis management and resolution regime at EU level (in construction since 2012), (ii) a desirable fine-tuning of procedural aspects for aids to the banking sector and (iii) the establishment of an adequate and balanced content for a set of Restructuring Aid Guidelines applicable only to the financial sector (also bearing in mind, in general, the 2012 State Aid Modernization Communication).

In this challenging context, very much in flux, a crucial issue – that deserves to be deepened and analytically explored in line with ongoing and prospective policy developments – concerns the possible and desirable articulation of new non-horizontal specific sets of rules or patterns of state aid control to financial institutions with the various building blocks of the new *European Banking Union*, which was called by the Commission in May 2012 and had key sets of rules approved in December 2012 (envisaging in the future, as aforesaid, the possible direct recapitalization of banks through the European Stability Mechanism and a new single supervisory mechanism for banks currently to be developed within the ECB).[6]

Following an entirely different analytical line, the paper of Gul Gok critically discusses Turkish competition law and its underlying goals as a case study of the normative input of competition rules and the related public policy to processes of major structural changes of economies in transition (as it is the case of Turkey, experiencing four significant economic crises between 1980 and 2008, but meanwhile engaged in major economic structural reforms in the context of the adoption of the first "Accession Partnership" between Turkey and the EU in 2001, this approximation to the EU also providing the political and institutional impulse to the adoption of an EU competition law 'model', while, as the author duly emphasizes, against the backdrop of an institutional, economic and legal setting much different to that of the EU).

[6] See on these aspects on which the limited remit of this Editorial does not allow any extensive characterization, *inter alia*, Nicolas Véron, *From Supervision to Resolution: Next Steps on the Road to European Banking Union*, Bruegel Policy Contribution, February, 2013.

The paper suggestively characterizes the broad set of objectives underlying Turkish competition law and policy. It is submitted that against this broad teleological program, which, one may add, tends to be found in some economies in transition adopting 'ex novo' competition rules, some degree of ambiguity and even uncertainty has emerged as regards the boundaries of competition law and policy. The author underlines as particularly noteworthy a lack of coincidence between the scope of the objectives of Turkish competition law as provided in the 'statement of purpose' of this law (submitted to Turkish Parliament) and – significantly - as stated by the Turkish Competition Authority in the international arena (notably, in a Questionnaire conducted for an ICN Report of 2007). This latter statement of objectives places, in fact, a greater emphasis on the promotion of consumer welfare – to some extent more in line with EU policy statements on competition policy over the latest decade – while the former statement seems to establish wider 'total welfare' and 'social welfare' objectives.

It is concluded in the paper, on the basis of a critical analysis of relevant case law (concerning enforcement of competition rules), but also pondering, in a comprehensive manner, what may be regarded as the Turkish economic constitution (as arising from various normative layers), that 'social welfare' has emerged as the 'ultimate goal' of Turkish competition law.

This characterization of the teleological program of Turkish competition law is most curious and may ultimately be not as profoundly divergent from the approach underlying EU competition model, in light of more recent evolutions of this model, bringing to the fore more diversified aspects (the relevance of which may be enhanced in a context of prolongation of the economic crises). I refer here to aspects that go beyond a strict view of the function of competition rules as promoting economic consumer welfare, that seemed to be perceived by the Commission over the latest years as an exclusive function of such rules, and involve in the somewhat definitive, albeit not entirely clear, formulation of the Court of Justice of the EU, a purpose of "preventing competition from being distorted to the detriment of the *public interest*, individual undertakings and consumers, thereby ensuring the *well-being of the European Union*."[7] emphasis added)

Coming now back to the core questions about the impact of the financial crisis on competition law and on the challenges ahead of this body of law – as put forward in the first part of this Editorial and considering multiple aspects discussed in the papers (particularly as regards state aid to the financial sector) - it is curious, or, to some extent, paradoxical that in a period of hypothetical or supposed retreat of competition law and policy and of competition authorities, the EU Competition Authority (Commission) is playing a decisive role on the incoming evolutions and prospects of a key sector for the economy as the financial sector. In thesis, this may even imply risks or problems of a

[7] This formulation, not entirely clear in all its constitutive elements, being used by the CJEU in para. 22 of the recent 17 February 2011, "*Telia Sonera*" ruling (case C-52/09). See on this, my analysis of recent evolutions of the teleological program of EU competition law, in Luís Silva Morais, *Joint Ventures and EU Competition Law*, Chapter 4, Hart Publishing, forthcoming, 2013.

new type of overlap between the competition authority and Regulatory and Supervisory Authorities of the financial sector, somehow epitomized by statements of the former EU Competition Commissioner Neelie Kroes, referring a necessary intervention of the Commission, in its role of competition authority, in the area of financial stability and performing tasks that Regulatory and Supervisory Authorities of the financial sector failed to perform in a satisfactory manner. A second possible paradox involving competition law and policy in the context of economic crisis has to do with the fact that the dynamic and volatility of the evolution of the economy and of the financial sector in the more recent months and years has led to the emergence of some winning entities *vis a vis* other players that exited the market or were constrained to drastically reduce their activity. Accordingly, a restricted group of some market players (particularly in the financial sector) have presented exceptional results (record results in some cases over the latest 24 months) that are bound to indicate a significant reduction of competitive pressure and a correlated reinforcement of market power, which requires enhanced attention on the part of Competition Authorities and corresponding strategies to monitor this reinforced market power and its possible effects.

On the basis of this second aforementioned paradox (arising from the interplay of competition law and policy and the economic crisis), I – to some extent – disagree with John Fingleton's view (see – 'Competition Policy in Troubled Times' – OFT, 20 Jan. 2009), according to which the economic crisis may promote vigorous long-term growth in productivity, eliminating inefficient firms that would have survived in periods of expansion and thus strengthening the production base and promoting innovation in subsequent periods. While this vision of 'creative destruction' may be true in some cases, given the seriousness and persistence of the economic crisis, there are, conversely, serious immediate risks to competition arising from the significant reinforcement of market power of some players (since the players eliminated or gravely constrained in a situation of protracted crisis are not inevitably the least efficient) – requiring as such enhanced attention and adequate monitoring strategies.

On the whole, this Editorial introducing a valuable body of critical analysis developed in the four papers published in this special issue, may be closed putting forward four tentative final considerations, although dealing with a context still in flux:

(i) It may be submitted that the crisis (2007-2009, and ongoing, under new diversified forms) should not lead to a fundamental paradigm shift in terms of competition policy (lato sensu). The crisis should not call into question essential premises of competition law systems (as evolving over the last decade, *e.g.* in the EU case, more reliant on economic aspects and 'effects based', albeit, as aforesaid, a greater attention to a wider notion of "well-being of the European Union" may emerge). It should not either justify a fundamental relaxation (a kind of 'benign neglect') of enforcement of competition rules. Conversely, considering the origin and causes of the crisis, it should lead to a qualitative new interplay between competition law and a deeply reformed regulation of the financial sector (oriented towards avoiding the emergence of 'too big to fail' financial institutions not subject to the same competitive constraints as other market players).

(ii) There is a margin for the development of new and more sophisticated forms of competition advocacy on the part of Competition Authorities (in connection with governments), avoiding the dual mantra of competition enforcement parameters absolutely untouched regardless of the crisis and of formal appeals against alleged over-regulatory responses to the crisis. As part of such competition advocacy, and building on methodologies developed by the OECD (e.g., 2007 – OECD – Competition Assessment Toolkit), there is room to promote a fine-tuning of methodologies to identify and assess restraints of competition arising from certain public and regulatory policies.

(iii) There is also room for the development by Competition Authorities of a 'balanced flexibility' approach. This means, while preserving core goals of antitrust and key enforcement parameters (not fundamentally relaxed), to adapt the enforcement process to the prevailing economic conditions (with a limited degree of flexibility that does not lead to long term harm). In this context, prioritization is essential to select the areas more critical to preserve competition incentives in the particular conditions of a prolonged crisis. The prioritization approach is well known in the UK (with the OFT adopting prioritization principles), but may still be the object of a qualitative upgrade. In Portugal, the recent 2012 reform of the Competition Act led to the replacement of a preceding legality principle by an opportunity principle that at the same time allows the Competition Authority to define priorities for its activity and requires it to state and justify the guiding criteria of such prioritization.

(iv) Finally, also relevant and to be considered is a qualitative upgrade of methodologies used by Competition Authorities to evaluate the economic output (or social and economic output, considering the perspective of consumer welfare or even a wider perspective) of its antitrust enforcement – maxime (but not only) in the field of cartel work (price effect, volume effect and other negative effects that may to some extent be measured or estimated), allowing regular comparisons of those economic outputs with the budgets and resources allocated to Competition Authorities (thus resisting temptations of budget cuts or other financially driven restructuring of those Authorities like, e.g. 'mergers' of Competition Authorities with sector-specific Regulatory Authorities).