

Tax & Legal Weekly Alert

21 – 25 April 2014

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Tax Update

The tax exemption for reinvested profit was reintroduced.

Starting from 1 July 2014, tax exemption for reinvested profit will be applicable for profit reinvested in technological equipment, machines, work equipment and installations used for business purposes. The tax incentive would be applicable for new equipment produced or bought after 1 July 2014 and commissioned before 31 December 2016 – [page 2](#).

Legal Update

The report launched by Competition Council regarding its activity in 2013.

In April 2014, the Competition Council launched the Report regarding its activity for the year 2013 where it presents the progress of the investigations performed during 2013 as well as the application of sanctions compared to previous years. Among the goals to be achieved in 2014, the Competition Council envisages finalizing the ongoing investigations in food retail sector, media, drilling services and milk sector – [page 3](#).



The tax exemption for reinvested profit was reintroduced

According to OUG nr. 19/2014, starting from 1 July 2014, tax exemption for reinvested profit will be applicable for profit reinvested in technological equipment, machines, work equipment and installations used for business purposes. The tax incentive would be applicable for new equipment produced or bought after 1 July 2014 and commissioned before 31 December 2016. Those assets to be considered are included in subgroup 2.1. of the Catalogue regarding the classification and normal useful lives of fixed assets. Currently, there is no definition of the term "new equipment", further clarifications will be introduced by the methodological norms.

The exemption from tax on reinvested profit is calculated once every quarter or every year, as the case may be, and is granted within the limit of profit tax due in that period. Reinvested profit represents the cumulated gross profit from the beginning of the year when the equipment is commissioned. If the profit tax is computed on a quarterly basis and investments were made in the previous quarters, the value of the profit already reinvested should be excluded from the cumulated gross profit. The facility is applicable also for the assets partially commissioned in a fiscal year, based on partial work reports.

To benefit from this incentive, taxpayers must maintain the equipment for a period of at least half of its useful life. However, this period cannot exceed 5 years. Otherwise, profit tax would be recalculated and interest and late payment penalties would be applicable. Certain exceptions are applied in the case of reorganizations, liquidation or other situations (e.g., theft). In addition, those assets subject to this facility cannot be depreciated using accelerated depreciation method.

For reinvested profit, taxpayers should book a reserve at the end of the year. Such reserve would be taxable when utilized in any way, including in the case of reorganizations, if the beneficiary company does not maintain this reserve.

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The report launched by Competition Council regarding its activity in 2013

In April 2014, the Competition Council launched the **Report regarding its activity for the year 2013**. The report presents the progress of the Competition Council's investigations as well as the application of sanctions compared to previous years. Also it includes the most important cases settled in the courts, the Competition Council's international activity, ways to promote competition regulations, as well as the goals to be achieved for 2014.

1. As regards investigations related to the year 2013

- 18 new investigations were initiated, of which approximately 67% were at the Competition Council's initiative as a result of the analysis of the market;
- 23 investigations were completed, meaning approximately 24% of the cases under review;
- the main industries targeted by the investigations were road construction (this sector was subject to the highest number of investigations – 21%), the milk sector and cinema sector.

Chart 1 – type of investigations completed by the Competition Council in 2013, divided as per the potential breaches of the competition law

23 completed investigations

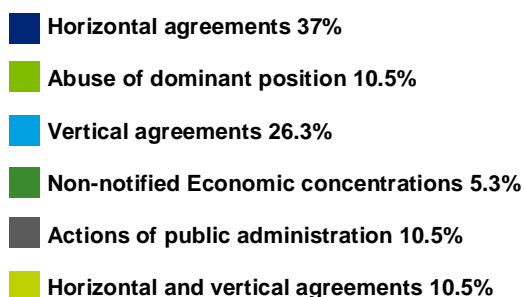
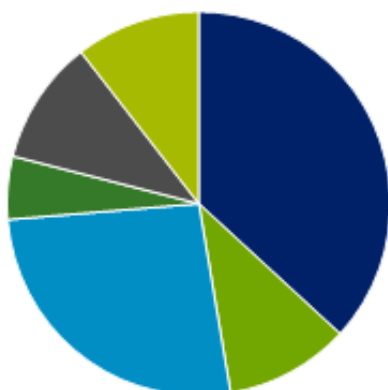


Chart 2 – ongoing investigations under the analysis of the Competition Council in 2013

63 ongoing investigations

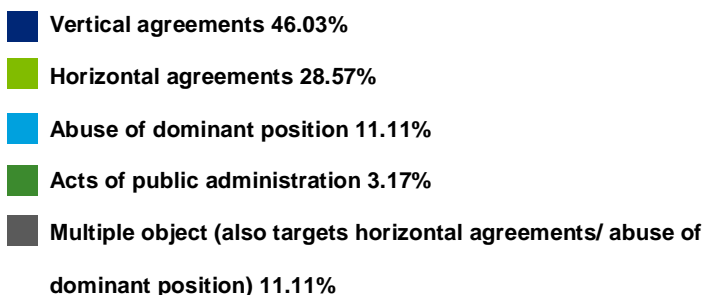
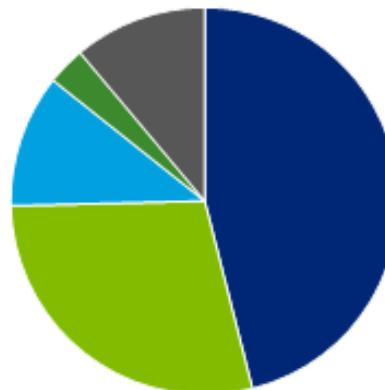
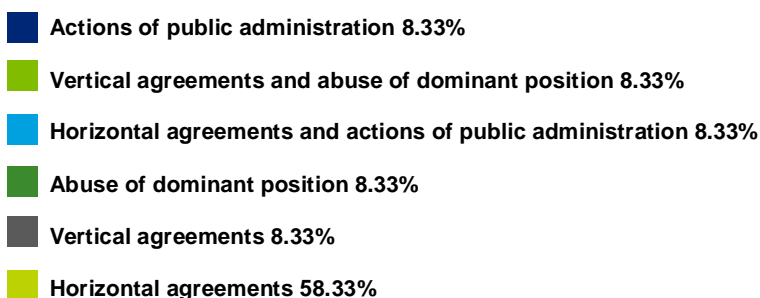
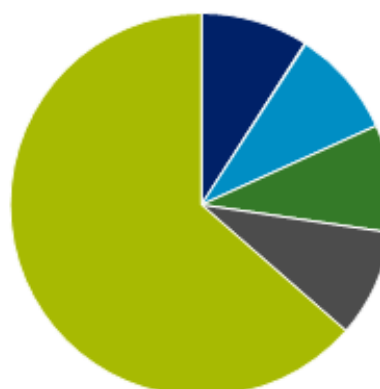


Chart 3 – types of potential breaches of the competition law subject to new investigations initiated by the Competition Council in 2013

18 new investigations

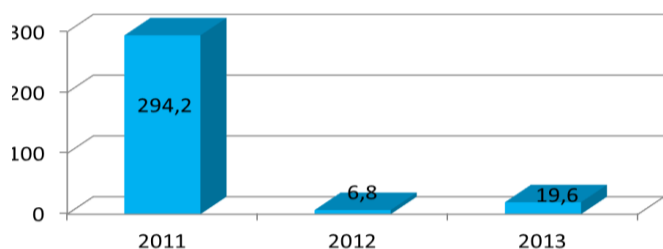


2. The value of fines applied in 2013 increased by 187% compared with 2012

Unlike the previous year, in 2013 more investigations were completed by the Competition Council, meaning that the number of fines applied also increased. Compared with 2012, the fines increased by 187%. However, compared with 2011, the value of the fines is 15 times lower.

Chart 4 – Evolution of the fines applied by the Competition Council in the last 3 years

Evolution of fines (2011 – 2013) (mil EUR)



3. 93% of the Competition Council's decisions have been upheld by the courts

The Competition Council won last year most of the lawsuits in which decisions regarding the violation of the competition law were contested in court (93% of the lawsuits). Some of the most important cases handled in court in 2013, in which final/irremovable decisions were pronounced, include: the cartel regarding the withdrawal from the market of Eco Premium fuel, finalised by the Competition Council in 2011, and abuses of dominant positions of Orange and Vodafone, also finalised by the Romanian competition authority in 2011.

4. Main strategies of the Competition Council for 2014

- Finalising the investigations and sectorial inquiries in key areas, such as:
 - *consumer goods* (anticompetitive agreements between suppliers and retailers in the food retail sector);
 - *media* (possible agreement between companies to eliminate competitions in bids for awarding advertising accounts of customers from Romania);
 - *drilling services* (possible anticompetitive acts in certain bids for awarding these services);
 - *milk sector* (possible agreement between certain companies to participate with rigged bids in the auction organised by Giurgiu County Council for the award of "supply milk products for students and pre-schoolers" agreements)
- Compliance with the European legislation, as well as active participation, along with other European Union member states, to modernise state aid rules.
- Promotion of the legislative framework in the field of unfair competition.

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