

FOREWORD

The Institute of Economics, CERS launched a new yearbook entitled “*Verseny és szabályozás*” (Competition and Regulation) in 2007. Twelve volumes have been published so far in Hungarian. The current volume is the second one in English, and it contains ten selected translations from the harvest of the last four years. It offers the reader a glimpse into the current state of research in the field of competition policy and economic regulation in Hungary.

As the title suggests, the main objective of the publications was to create a much-needed new forum for home-grown Hungarian research on the legal and economic issues of regulation in imperfectly competitive markets. The published studies have covered a very broad range of topics. Some of them were articles of general theoretical and methodological nature, which dealt with the background in the law and economics of regulated markets. Other pieces investigated current legal, economic and policy issues and cases. Others again dealt with regulation and the regulators themselves. The functions, methods, analytical tools, the institutions and the impact of regulation were discussed in those articles. Special attention was paid to regulation by the European Union, and also to recently de-monopolized key industries such as communications, energy, media, the postal sector or water and sewage. More than half of the articles dealt with the problems of key industries. The publications were designed to provide a meeting point for economists and lawyers to work together on the economic background of legal problems and the legal solutions to economic problems. They also had an educational function. In an introductory manner and by relying on timely surveys of recent developments in the analysis of imperfect markets and regulation, articles suitable for educational use have been regularly published.

Over the years, the yearbook has become a major undertaking. Its 71 contributing researchers (53 economists and 18 lawyers) appeared in it as authors or co-authors of 120 articles. 31 of them became recurring contributors, authoring or co-authoring at least two articles. A steadily growing interdisciplinary circle of dedicated researchers has formed around the publications. Interactions among the authors increased over time. Significant lawyer-economist cooperation was demonstrated by the large number of contributing lawyers and articles about legal issues (18 lawyer authors produced 34 such articles), and by the emergence of articles co-authored by economists and lawyers.

Five of the ten articles selected for publication in English in this volume deal with broad economic and legal issues of competition policy, while the remaining five discuss the state and specific problems of key industries in Hungary and, in some cases, in the EU.

The first article, by *T. Gönczöl*, presents the ongoing and constantly evolving debate between the followers of the hipster antitrust approach and their critics. The renewal of competition law enforcement has become one of the focal points of political and professional discussions in the United States. The main critics of the prevailing practice, the so-called antitrust hipsters campaign for bringing back the original goals of American competition law, demand restrictions on the activities of huge corporations of the digital era, even by regulation if needed. The author suggests that it is likely that the ever-changing high-tech industries and innovative companies will, as always, develop newer products and applications that will force law enforcement to a continuous renewal, or at least to a progressive adaptation.

The second article, by *G. Csorba*, addresses the lessons that can be drawn from the European Commission's early 2019 prohibition of the Siemens–Alstom merger and the subsequent industrial policy debate. After reviewing the assessment principles in competition policy concerning mergers and describing the specific merger in detail, it discusses industrial policy proposals for changes and institutional reforms in competition policy. The author explains that although some principles and guidelines in competition policy call for a reconsideration, the fundamental assessment framework works well. Concerning institutional changes, however, the author argues that the proposed industrial policy reforms may restrict regulatory independence and erode the values of professional competition policy assessments, which are strong determinants of long-run welfare.

The third article, by *P. Valentiny*, also deals with the changing relationship between industrial policy and competition policy interventions, but from a historical perspective. One common trait of all the periods was that the changes clearly reflected ideological and political trends and various groups' ability to protect their own interests, and the final result of interventions was often not what was originally intended. The study briefly discusses the periods when monopolies emerged, the inception of competition regulation and the coexistence of competition and industrial policies in the last hundred years and its experiences.

The fourth article, by *B.T. Dömötörfy*, *B.S. Kiss* and *J. Firniksz*, addresses the prohibition of anticompetitive agreements in EU competition law. Their analysis focuses on the frontier between "by object" and "by effect" restraints. After introducing the main definitions of anticompetitive agreement categories in EU and in the USA, the article provides a detailed analysis of the Opinion of Advocate General Bobek in the Budapest Bank case and the two-step test recommended there. Providing a comparison of the aforementioned two-step test with US experience, the study summarizes the author's views on the ostensible nature of the dichotomy.

The fifth article, by *C.I. Nagy*, poses the question: why is leniency policy less effective in Hungary? Although, in regional comparison, it may appear to be successful, the statistical data shows that it falls behind the European average. This paper makes a comparative snapshot of Hungarian leniency policy in order to establish whether its relative ineffectiveness can be traced back to regulatory factors or to circumstances beyond regulation.

The sixth article, by *Z. Berezvai*, examines the impact of the regulation of the retail sector on competition and consumer prices. Using OECD data, he finds correlation between changes in retail regulation and changes in food prices, which suggests that regulation has an impact on competition between companies, and in turn influences consumer prices. The author looks at two specific regulatory measures: the Sunday shopping ban and the regulation restricting the building of new stores with large floor areas (known in Hungary as the “plaza-stop” act). His findings show that the compulsory Sunday closing had no significant impact on consumer prices during the one-year period the regulation was in effect. On the other hand, while modern retail formats and the penetration of international retail chains significantly reduced consumer prices, establishing entry barriers in retail had an unfavourable effect on consumers materializing in higher prices.

The seventh article, by *Z. Pápai* and *P. Nagy*, deals with the handling of zero-rating in net neutrality regulation as demonstrated by *Telenor Hungary vs NMHH*. An overview of zero-rated offers (services that offer content at zero marginal cost to consumers) is provided: their types, the business rationale for their use and the competition issues they may pose. Through the case of *Telenor Hungary vs NMHH*, the authors assess the economic effects of this business practice on welfare and competition, as well as the questionable economic rationale for prohibiting it. The study comes to the conclusion that the justifications of the European rules on zero-rating are highly dubious, and they are based on assumptions which are not proven empirically.

The eighth article, by *V. Csonka*, deals with the integration of mobile network operators. The author offers an overview of the relevant theoretical models and case law, concluding that network sharing agreements can bring about major static efficiency gains that play a key role in the individual exemption of agreements. This also means that the arguments of merging parties on static efficiency gains might not offer adequate justification for mergers, as the static efficiency gains are not merger-specific. At the same time, from the perspective of dynamic efficiency gains, mergers – given that strong synergies may improve the level of investment – can perform better than network sharing agreements. This means that network sharing agreements can be regarded as an alternative to mergers only to a limited extent. However, the relevant case law also shows that long-term benefits have not been properly substantiated so far, and they are usually not sufficiently demonstrated by the parties for the authorities to take them into full consideration.

As privatisation and deregulation started spreading in energy industries and *ex ante* regulatory interventions decreased, attention focused on the competition policy issues of the sector. The ninth article, by *S. Kováts* and *G. Szabó*, examines the European Commission's competition interventions in energy markets between 2004 and 2019. The authors analyse antitrust and merger procedures according to the competition concerns investigated and the competition interventions applied. Antitrust investigations often focused on market foreclosure and market sharing; to address these concerns, the Commission frequently concluded cases with commitment decisions, applying both behavioural and structural remedies. In merger control, one merger was prohibited and remedies were applied in ten cases.

For years, the Regional Centre for Energy Policy Research at Corvinus University of Budapest has been modelling European regional electricity and gas markets. The last article, by *P. Kotek*, *A. Selei* and *B. Takácsné Tóth*, is based on the modelling carried out in 2015. This article is still timely today. The authors analyse the impact of the Nord Stream 2 gas pipeline on the wholesale prices of European countries and the European gas market competition. It is also inspected how the expected return of infrastructural projects planned in the East-Central European region is impacted by this new development. According to the results, the expansion of Nord Stream – due to the modification of the long-term contracted transmission routes – will reduce those capacities that enable the region to access liquid Western gas markets. This will increase the current spread between the Eastern and Western European prices, hindering the integration of gas markets. On balance, the welfare impacts of the expansion will be negative, and most of the drop in welfare will have to be endured by East-Central European consumers and system operators. The analysis also shows that the East–West bottlenecks that are likely to arise due to the modification of the long-term contracted routes will warrant the construction of new transmission paths, requiring almost one billion euros of supplemental investments within the East-Central European region. In September 2019 the European Court of Justice ruled that allowing the redirection of Russian flows to Nord Stream does harm European solidarity.

The editors