

THE INFLUENCE OF THE COMPETITION POLICY ON STATE AID AND PUBLIC SECTOR WITHIN THE EUROPEAN UNION SINGLE MARKET

UDC 338.246.027+ 351.076]:339.137.2

Žarko Radenović

Faculty of Economics*, University of Niš, Serbia

Abstract. *A competitive and well-functioning market is imperative for the efficiency of the economy. First, competitive markets help correct distortions in the structure of production and thus raise productivity levels, and secondly, stronger competition provides an increased incentive for producers in the form of lower prices, higher quality and increased variety. Competition policy deals with the restriction of all non-economic behavior entities that cause market distortions. The paper provides general features of the European Union competition policy, as well as its historical development, basic elements and methodological framework. Further, this paper provides reforms, tendencies in development and examples from the jurisprudence of the EU competition policy, with a special review of article 81 (prohibition of the restrictive agreements, cartels) and article 82 (prohibition of abuse market dominance) of the EC Treaty.*

Key Words: *Competition policy, European Union, restrictive agreements.*

INTRODUCTION

Since ancient times and the Middle Ages, there were many legal forms that prevented disruption of effective competition through market anomaly embodied in the monopolistic actions of certain manufacturers. The earliest document of ancient Rome in the area of competition policy is related to the control of prices and unfair competition. Competition is one of the first areas of the economy which is regulated launched around the world, primarily in the United States at the end of the nineteenth century and in Europe through the principles of English common law on restricting trade. The first modern antitrust law is known as the Sherman Act of 1890, which is the precursor of modern competition law and about the prohibition of monopolization and cartelization of the market between large firms and criminal justice sanctions characters.

Received September 10, 2015 / Accepted April 10, 2015

Corresponding author: Žarko Radenović,

Faculty of Economics, University of Niš, Trg kralja Aleksandra 11, 18000 Niš, Serbia

* PhD student, University of Niš, Faculty of Economics

E-mail: zarkoradjenovic2@gmail.com

Competition policy is often associated with anti-trust legislation, and, in addition to regulating monopolies, it aims to prevent the occurrence of all forms of behavior of economic entities that could potentially jeopardize the efficiency of an economy and the way of implementation of competition policy. Defining the basic principles of competition policy is important for the simple reason that the proper implementation of the same and continuous improvement in terms of the legislation in this area, leading to the prevention of the occurrence of restrictive agreements and abuse of dominant position. This allows for the successful functioning of the free market and almost completely conducts a function that is selective, allocative, distributive and informational. Also, a proper enforcement of competition policy to prevent market distortions due to inadequate legislation can lead to damage at the expense of effective competition and the damage at the expense of consumers in terms of higher prices, poorer product range, as well as the deteriorating quality of products and services. Besides the impact on customer satisfaction, growth and productivity of the company together with other macroeconomic policies, competition policy operates on the global competitiveness of the country, which means that the antitrust laws complement instruments of law and economic theory. This indicates the importance of standardization of the basic postulates of competition policy which is being implemented at the level of the European Union, which helps establish a stronger, more compact and fairly cohesive Single Market of the European Union. The competition policy in a large area of the European Union must therefore be balanced and flexible, which is achieved by a correct view of short-term and/or long-term changes in market structure. The aim of such a defined competition policy is to prevent the abuse of dominant position, the creation of allocative inefficiency and loss of general social welfare on the one hand, and the loss of economies of scale and production efficiency due to restrictive policies (competition), on the other hand.

1. COMPETITION AND THE COMPETITION POLICY

The belief in the kind of economic competition as a tool that leads to proper distribution of social welfare is an act that comes from countries in which the economy operates on the principles of free markets. Competition is most often defined as a struggle for superiority, as to the commercial world, it means striving for the realization of greater profits, and taking a better position in the market compared to direct rivals. Regardless of the various types of definitions of competition, the question always rises of whether it occurs by itself, through market forces, or is determined by an organizational prince, who was imminent for the establishment of an adequate business in a given market area. Theoretically speaking, by the language of neoclassical economists, each competitor strives for its desired, it is the natural form, perfect competition, where a lot of businesses participating in the offer, but none has an advantage in terms of dictating the market conditions or the amount of sales price. Perfect competition, which is almost non-existent in the real world in its original form, is recognized by Adam Smith who spoke about the "invisible hand" of the market, theorists explain how to maximize the wealth of the consumer. Competition is, because it focuses on the efficient allocation and distribution of social welfare, in terms of providing consumers with the required amount of products and services while minimizing costs. On the other hand, imperfect competition, which is precisely regulated by competition policy through legislative form, embodied in the monopolies and cartels, implies a restriction in the distribution of products and services at higher prices and under worse market conditions. It

is said that it "secretly" brings suboptimal and inefficient allocation of society's resources and becomes the personification of their abuse. Regulation of competition means drawing positive features of competition that are embodied primarily in stimulating economic entities as many entrepreneurial initiatives and innovations that besides creating a wide range of products and services, lead to a reduction in unit costs due to economies of scale. The benefit is mutual if the competition is used properly. Perfect competition can be harmful, because there is no initiative to offer training which comes just from the rivalry between economic entities, and it creates monotony which causes dissatisfaction of customers themselves and thus lower profits.

To achieve the positive effects of competition, there is a competition policy whose methodological and institutionalized framework paves the way for equitable distribution of social wealth. It is necessary for the simple reason that the market can not only neutralize the behavior of business entities who use competition to realize extra profit. Its institutionalization involves the intervention of regulatory authorities of the State or of those economic integrations of which it is a member, for which there are a number of reasons. The competition policy acts preventively, because it prevents anti-competitive behavior of market actors, who in order to constantly make extra profit market category in the foreseeable future. Preventing maneuvers of large companies that market their actions to confuse other players, the competition policy eliminates the abuse of dominant position and abuse in size in order to achieve business goals at the expense of others. Policymakers competitors have a difficult task which consists in detecting and putting under the legal framework of all possible forms of fraud used by business entities in order to get a larger share of the pie. The whole process involves a kind of neutrality and the policymakers have to resist the political and corruptive pressures. The competition policy formation and its implementation is often associated with several key elements of each market and the single market of the European Union. These are:

- Wealth consumers – the technical part of competition policy applies to promote it as a direct link between performance improvement of products and services and customer satisfaction.
- Protection consumers – implies the action of competition policy to protect individuals from large business entities and their unpopular market moves that generate extra profits. Also, this element of competition policy refers to the protection of consumers from political influence.
- Redistribution of wealth – the competition policy attempts to inhibit a smaller number of business entities in pursuit of appropriation of most of the wealth and therefore political action that is undemocratic when it comes to monopolies and cartels.
- Protection of small and medium enterprises means protecting "young" industry as an incentive for the development of a large number of small enterprises in order to maintain competition.
- Regional, social and industrial aspects – this element relates to the role of competition policy as an instrument for the development of backward regions and an instrument for preventing the occurrence of unemployment due to the closure of those sectors that can not stand politics run by monopolies in this market segment.
- Market integrations – this element is primarily a European phenomenon where competition policy shows its true scope of activities by eliminating barriers to trade on the territory of the European Union. Such an action of the competition policy contributes to the development of the single market of the European Union (SEM).

As shown in the previous text, several elements of competition policy imply its various forms that correspond with the reasons for their application. The most frequent meet several dimensions of competition policy, such as policy cartels, monopolies and mergers. Thus, for example, firms may join in the application of restrictive practices by forming cartels. These agreements, which may be implicit and informal, may result in setting the price above the real, market prices (price fixing), or mutual sharing of markets between the cartel participants where each company in its market segment appears as a kind of monopoly. Agreements may include direct competitors in the market (horizontal agreements) or companies that operate at different levels of the production/distribution process (vertical agreements). The existence of monopoly (one firm that dominates the market) on the other hand, or oligopoly (a small number of large companies that dominate the market) may also have adverse effects on competition. The most commonly seen misuse of position in the market is through lower rates, thus removing other competitors (the so-called predatory pricing), or the behavior that leads consumers to the fact that no matter how high the prices, they have no other alternative but to pay for the desired product or service. Mergers and joint ventures are, however, less harmful to competition because they can achieve cooperation with the authorities in respect of the assessment of the market or industry sector in which it is best to make this concentration as a function of satisfying the demand and maintain the market. These three dimensions of competition policy are its pillars regardless of political or social conditions it is applied in, as the main focus of competition policy is the elimination of agreements that significantly prevent, restrict and hinder the efficient operation of "natural" competition.

2. STATE AID POLICY- ARTICLES 87 AND 88. (FORMERLY ARTICLES 92 93 OF THE ROME AGREEMENT)

State aid policy is one of the most original policies of the competition policy of the European Union. It mainly allows monitoring of government policy in supporting their national companies. It represents, in some way, braking system strategy of industrial sectors leading to distortion of competition in the Single Market of the European Union. The observation that the single market of the European Union threatened not yet thoroughly tested policy of state power is quite true, considering that only with the help of state authorities, injury to competition in a market that is free of barriers "may be justified". Thus, the policy of state aid remaining as the only secret weapon for dominance in a market that has no physical, regulatory, or fiscal barriers. Many state policies are perceived as an instrument for the fragmentation of the market, which is justified by the holders labeled "State." This type of policy is very different from any other that has a national context, and is not considered a traditional part of the competitive domestic policy. Promoted by the Directorate of competition, it, however, differs in their characteristics, from the Commission's policy of restrictive practices, monopolies and mergers with regard to its regulatory objectives being related to the government or the state, not the company. Department G is responsible for the implementation and control of these policies within the Directorate for Competition. It is divided into seven units: coordination unit, horizontal aid, regional aid, industrial/sectoral assistance, public utilities and services, a unit of analysis and unit reports.

The Tenth Report on Competition Policy from 1981 talks about the politics of state aid, which can cause distortions in the market and accordingly perform its evaluation and possible

ban, in order not to be repeated by the national government. However, regardless of this statement, properly used state aid policy can be good in achieving the objectives of the Treaty, such as market integration, the reduction of economic and regional disparities or coordination with other forms of competition policy. Therefore, according to Article 87 of the Treaty on European Union, any aid granted by a Member State or its state resources which distorts or may distort competition by favoring certain undertakings or their products, contrary to the Common Market to the extent that impairs the exchange between countries member States except in accordance with the provisions of the Treaty., It does not contradict the Common Market in these cases:

- When state aid has a social character and when it is allocated to individual consumers without discrimination based on the origin of products,
- When the state aid is granted in the case of recovery of the consequences of a natural disaster or other extraordinary circumstances,
- When the aid is granted to certain regions of Germany that were damaged in the division of West and East to the extent it is necessary to compensate for the lag due to the division of the state.

There are also cases where the policy of state aid is in line with the common market.

- When state aid is to promote the economic development of an area (region) where the standard of living is below normal, or where there is serious underemployment. In doing so, the Commission considers the situation to be bad enough in a region that has less than 75% of the gross national income per capita relative to the EU. Help to create employment may be granted by the Commission only if it is linked to the achievement of the initial investment and does not exceed a certain percentage of the price of the employee, which is calculated for two years. Also, the support for the employment cannot be given if it is not maintained in the next five years and is prohibited for those companies whose costs are reduced because what is important is not the goal, but the impact of the measures on competition.
- When state aid is used to promote a specific project of common European interest or the removal of a severe economic disruption in a Member State.
- When state aid is used to facilitate the development of some important regions, if it does not violate the terms of exchange to the extent contrary to the common interest. However, support for the shipbuilding industry that existed prior to the entry into force of the Treaty of Rome, to the extent that is introduced due to the lack of tariff protection, was progressively reduced under the conditions which apply to the elimination of customs duties, subject to members of the Rome Agreement relating to the common commercial policy to third countries.
- If state aid is used to promote culture and preservation of cultural and artistic heritage, if it does not affect trading conditions and competition in the Union, and if isn't contrary to the interests of the market.
- Other categories of assistance that the Council establishes a qualified majority on a proposal from the Commission.

When it comes to making decisions about whether a state aid is contrary to the competition or not, there is firstly the process of notification that includes the publication and delivery of state aid policy implemented by the government in a given industry sector or area in order to see whether such strategy leads to distortion of trade between member countries. The process usually has a time lag that occurs between application of the state

aid and sending a notification to the Commission. Commission tasks the rapporteur of case to submit facts relating to state aid policy that has been implemented in some of the states within two months. In most cases, this period is enough to know about a given state aid and if it is positive and approved, then such a decision is published in the Commission's Official Gazette. The Commission carries out an investigation for not more than six months of a negative or conditional decision published in the Official Gazette L series. The Commission has the opportunity to conduct an informal investigation into the politics of state aid that allows it more credibility if it all ends favorably because its decisions do not have to be reviewed by the court. In this respect, Article 88 is mainly a continuation in a legal sense, of the previous process by defining the activities of the Commission and the Court regarding the decision. Specifically, it points out that the Commission is permanently in cooperation with member states granted aid review and suggest measures to improve the development and operation of the common market, where if it finds that aid granted in accordance with the common market is pursuant to Article 86 and is abused, the Commission shall decide to revoke. If by any chance the member states do not apply this decision the Commission or interested party can send a complaint to the Court, which has a deadline of three months for having an opinion about the fairness of state aid. Control of the behavior of companies and businesses on the market that may receive government assistance in any way must be implemented in order to avoid distortion of competition by favoring certain market participants. That is why Article 87 regulates the conditions for granting state aid while Article 88, defines the state aid granted.

State aid control has not become a domain of concern of the Directorate for competition until the late eighties, due to the fact that after 1968 and the establishment of a customs union, there was a removal of tariff barriers. State assistance in maintaining competitiveness was required by businesses who now have a wide market available. Cases related to state aid have been a slow process due to the fast-growing cases of restrictive practices that needed to be processed. It was not until the recession in 1973 that the Commission was forced to understand the importance of state aid. With the inability to deal with high inflation, rising unemployment, a drop in demand and non- competitiveness, states have started to increase in public spending in order to provide protection of the industrial sector from the negative effects of the recession. At this point, the Commission was faced with a number of notifications, but not the importance of partnership with the member states themselves. That is why the revitalization of this part of the competition policy of the European Union was made in 1985 by an act of state aid, which in addition to the legal and statistical significance was established as a trend in the movement of state aid, which is an average of all member states at that time, to the beginning of the nineties, amounted to 15% of public expenditure and 4% of GDP. The Act also defined three principles related to the provision of state aid:

- Certain state aid is not always fair ;
- The effectiveness of the policy must be established,
- Transparency of all aspects of state aid must be a priority.
- Three subspecies of this policy have emerged through evolution of state aid policy:
 - Regional policy of state aid,
 - Sectoral policies state aid
 - The general policies of state aid.

Regional policy of state aid has its legal basis in Article 87 of the Treaty, and it refers to the state aid that promotes economic development in the region where there is low standard of living and high unemployment. This provision means that during the course of providing assistance that facilitates the living conditions in a given region cannot get to the imposition of conditions of exchange, which can jeopardize effective competition in the EU market. These two aspects of regional policy are very difficult to match, but despite that, it makes on average a quarter of the total assistance provided to the State in the territory of the member states of the European Union. This policy contains four principles on which its implementation by the Directorate for Competition is based and that were adopted in 1971 in the resolution of regional aid:

- A consistent policy of regional aid in accordance with the needs and development of the region, in comparison with the best of them. This means helping regions facing declining industrial development and their approach towards leading development centers in the member states, so that people have equal opportunities to live and work. Toward that end, forming regional maps to help proper distribution;
- Transparency of regional aid;
- The possibility of its quantification;
- Specificity of assistance for each region separately.

Sectoral policies state aid refers to aid for the development of certain economic activities, mostly in the industrial sector or a region where the industry as a sector dominated. It is awarded only in the event that the regular operations of the market cannot be achieved given the economic objective. In support of this, the Commission has defined the criteria for the application of this principle, which should be distinguished from the criteria for the award of any sectoral aid from those that apply to the sectors in crisis. Regarding the first criterion, sectoral assistance must:

- Be necessary,
- Re-establish a long-term economic solvency of the company,
- Be reduced with the passage of time,
- Be clearly linked to the restructuring of a given sector,
- Be proportionate to the problem that needs to be resolved, so that the distortion of competition is reduced to a minimum,
- Prevent migration of industry problems and unemployment from state to state,
- Be approved in the function of facilitating the social and economic cost change companies if the reform process was time consuming.

If this aid is granted for sectors in crisis, it may not act in such a way that a company or a sector come in a better position than the other competitors, but only to stabilize the situation in the sector or company, respectively. When assigning sectoral forms of assistance, there are special rules for certain so-called most important areas. In the automotive sector, it is obligatory to apply for help if the value of the investment project exceeds 50 million, or if the amount of the assistance exceeds 5 million. Assistance is awarded for innovation in the amount of 10% of total costs, but only in case of industrial and technological risks. Regarding the area of research and development, assistance may be approved for large projects of European importance, especially when it comes to the science sector. If the results of scientific research can be utilized without discrimination, then the costs may be covered 100%, but if they can distort competition, then the cover of cost is 25%. SME assistance may be granted in order to achieve the objectives as well as the European interest, with

the help of financial investments must not be higher than 7.5% (except in the case of companies with fewer than 50 employees and whose turnover is less than 7,000 000 euros and the balance is less than 5 million Euros when it is 15%), while for the advancement of knowledge of not more than 50%. It is important to note that the European Commission believes that small and medium-sized enterprises are those with fewer than 200 employees and an annual turnover of less than EUR 40 million or an annual balance sheet of less than 27 million euros.

Category general state aid policy contains all the help and assistance schemes which can not be classified in the sectoral and regional. Although it is more difficult to identify than the previous two, it is spread over almost the whole of economic life of the Union. To better clarify this concept, the Commission and the Directorate of Competition issued a lot of regulations and legal framework, including the legal framework of the Union State aid for research and development in 1985. After 1993, when the Act on State Aid for growth, employment and competitiveness was passed, this policy is increasingly treated as a horizontal policy of state aid, whose primary role was related to small and medium-sized enterprises. These companies, according to this Act, could receive government assistance only to the extent of 100.000 ECU for three years.

3. COMPETITION POLICY FOR PUBLIC SECTOR ENTERPRISES AND ACTIVITIES OF GENERAL INTEREST - ARTICLE 86.

An important aspect of the relationship government- industry refers to the regulation of the sectors which are state-owned. Here the accent is primarily on sectors such as manufacturing and electricity, gas distribution, water supply, transport, postal services and telecommunications. After the advent of state aid policy, the Commission wanted to, enforce competition rules also in the area of so-called natural monopolies. In fact, for many years, none of the investors dared to step into the sectors of public interest given the high initial cost, and the state is used to charging fees for the provision of these services. It was only with the advent of liberalization and privatization during the Thatcher era (privatization of British Telecom and the companies supplying gas) that they went into solving the problems that existed in all economies- existence of an enterprise for activities of common interest with special rights in the operations approved by the state. Previous resistance to the implementation of competition among enterprises of the public sector has brought a number of problems:

- The quality of services is often not at the satisfactory level;
- Inefficiency is often a feature of the sector;
- Throughout the European Union, prices for the same services of public sector enterprises are significantly varied;
- There was a significant technological backwardness in this area;
- Unequal conditions that exist for companies in the public sector in various Member States and the aggravated interconnection in order to reduce costs and rational operations.

The task of the Commission consisted of literal confiscation of exclusive state control over these areas, due to the fact that the importance of introducing competition was great, because it not only helps the technological development of these areas, but there are also social and financial implications, such as new jobs and reducing costs of citizens. The

Commission therefore defined Article 86, which primarily aims to point out one important fact, which is that no matter what the state, public sector enterprises shall not in any way hinder competition in the area in which they operate. This article very broadly interpreted the concept of the company and the state: in addition to public companies, it includes companies engaged in activities of common interest, enterprises with special rights and fiscal monopolies (exclusive rights granted by a state enterprise where it becomes a monopoly in order to guarantee state revenue- example is the tobacco industry). The concept of public enterprise refers to an enterprise that where a determining influence directly or indirectly, a state or local community through ownership, financing or managing board in which a company does not have to be independent from the state, but may belong to its economic activity. Special or exclusive rights are granted in objective and indiscriminatory manner, so that businesses of this title is to eliminate competition. However, such measures are not entirely prohibited between Member States if a law of the existence of such a company or enter into a concession agreement. Exclusive right pertains to monopoly, while special rights to something of a more complex nature. However, the rights under Article 86 cannot be awarded if they are not in accordance with Articles 81 and 82. Accordingly, the Court expressly prohibits assignment of these rights, for example in the field of telecommunications and television frequencies, with a special focus on geographic zones and signal interference of other media, which performs the abuse of dominant position by state television. In order for a company to perform activities of general interest, the Commission has defined three criteria that must be met cumulatively:

- Continuously meet the needs of the widest range of users, products and services;
- Equal conditions for all;
- Providing services at a cost without a significant profit.

Nonetheless, according to the provisions of Article 86, there are situations which the Court found to be caused by excluding the competition if such a state is absolutely necessary. Such is the case with distribution of electricity if costs have to be too high a price is too low. The Court ruled that the production, transport and distribution of electricity, at a single price for all consumers and by the same criteria, specific area, and throwing the competition disrupted the market situation. Something similar is also in the provision of postal services but only those which are of general interest with regard to the fulfillment of specific requirements of consumers that competition may be justified. Companies of general interest cannot perform all activities profitably, which is made up by so-called shifting resources from those activities that provide universal and uniform for all users, which makes up any loss.

3.1. Telecommunications

The trigger that activated the work of the Commission in the telecommunications industry comes from two sources. First, as a result of the increased number of complaints about the abuse of the exclusive rights of national enterprises in the use of telecommunications equipment, and secondly, because the industrial sector has shown significant potential for the development of the competition and has done quite the impact on the flow of the European economy. Moreover, globalization and technological innovation also contributed. . Either way, the telecom sector has long been eager for the competition due to the heavy dominance of national monopolies upon the use of certain frequencies which led to transactions in the telecommunications market making almost 5% of the GDP of the European Union , which

is marked by the division of the market "the biggest" no possibility of creating a single market and the sector. The Strategy Committee has taken pursuant to this "Green Paper" in 1987 which is the regulatory framework consisting of three levels:

- The first level included the liberalization process, which included changing the entire telecommunications services to the European Union in 1990. (Satellite services and equipment, cable television, wireless services and network infrastructure, telephony and fixed network infrastructure, fax, modems and connection devices-receivers and routers).
- The second level of strategy involved the harmonization of standards in the market of communication or at least a process of standardization of the legislative framework in the Member States. hereby proclaimed aim of the Commission on the common principles of public networks and services, was confirmed by the Council Directive to regulate open network in 1990.
- Last, but not the least, for competition directorate is the third level that brought the innovations regarding the implementation of the competition rules in this sector, and the Regulation on the control of mergers in the case of telecom. Also, this level is possible with the application of Article 86 of easy investigation into the abuse of a dominant position by the largest mobile operators such as French and German telecoms.

Although the process of liberalization across all Member States already flowed, with an emphasis on all elements of such a strategy, through the mediation of the Commission, yet there was a broad framework of different targets that had to be achieved simultaneously:

- Publicize Single Market and its telecommunications infrastructure and services;
- Research and development innovations across the market;
- Unique fee for the development of services at a reasonable price;
- Financial stability;
- Contribution to economies of scale by leading companies;
- The primacy of European companies in terms of services in the global market.

Regardless of the contradictory goals and the possibility of politicization of the same, the Committee has succeeded in using their instruments to complete the entire story of the liberalization of the industry and continue to efficiently redirect the positive impact of the Single Market through its legislative tools to the competition. Continued development of this sector is reflected in the adoption of the Digital agenda, which follows the strategy of the Telecommunications until 2020, where the emphasis is put on the regulation of electronic communications and electronic commerce through a number of on-line services. The significant potential of the field of telecommunications is reflected in the fact that internet service European providers in major economies in the last five years make up 21% of GDP. The Commission's policy has played a significant role in the media sector in terms of transparency of the licensed rights to the television activity, especially for playing music online. In recent years, it was governed by the dominant position of Slovak and German telecoms and the Portuguese national operator. The Commission's implementation of the provisions of Articles 81, 82 and 86 carried by a member in the case of the largest Internet search engine Google in particular in the case of its application of AdWords relating to advertising campaigns. In the field of electronic media the decisions regarding the sector of e-book sales as fast-developed part of the digital economy were adopted. This is primarily thought to regulate the offer price and the prevention of distortion of

competition from major publishers such as Pearson Group, Macmillan, CBS Corporation. For the purpose of delimiting the rights of telecast of the strongest football leagues, the European Commission has adopted a program to prevent the distortion of competition. The importance of the role played by the Regulation on the control of mergers, which prevented musical productions such as Universal and EMI in setting up digital music platforms that are uncompetitive in pricing of listening and transfer of the music.

3.2. Energy

During the late eighties the Commission began with the strategy of liberalization and increased competition in this sector which was characterized by fragmented markets and high barriers to entry. Accordingly, the Commission has introduced a number of measures, which opened a new era in energy policy. The focus has been on electricity and gas. Globalization and technological progress have not become active in this sector so much, but on the other hand the various systems of production and distribution hampered the Commission to work with Member States. Thus, Germany's energy situation was quite complex given that there were a number of companies both large and small, while for example in France, there are only two state-owned enterprises for electricity and gas. In some countries, such as France, there are state-owned companies that had a monopoly in the sector and control, but in the UK for example, the energy model consisted of concluding contracts with foreign energy suppliers. The Commission due to all of this started making plans on the internal energy market on the European Union level. The arbitrary role of the Commission in this sector began in 1990 with the liberalization process that has brought the Council Directive on the promotion of transparent price of gas and electricity to the Directive on the transport of energy through the Member States. The plan of the process consisted in the opening quarter of the competitive market in January 1997, for those users who consume more than 100 gigawatt hours of electricity a year, which would mean that they themselves may be their energy supplier. The other part of the market for smaller users will get the prefix "competitive" when the conditions for it appear (for 20 gigawatt hours per year after 2000, a manual 9 gigawatt hours per year after 2003). It also proclaims the pillars on which the energy policy of the Union stands:

- Increase competition- involves the efficient allocation of resources across the single market through the implementation of competition rules, the creation of a regulatory framework for investment and punishment of the abuse of a dominant position. Thus, the Commission conducted an investigation of the Bulgarian Energy Holding of misconduct in the electricity distribution for enterprise customers;
- Sustainable development with environmental policy where state aid plays an important role in eliminating the negative effects on the environment and society that result from inadequate operating of companies, such as for example, help to companies in the UK to buy environmentally profitable vehicles in terms of emissions or help companies to use the waste to produce heat (Austria);
- Security of energy sector of the European Union is largely dependent on imports as they are producing only 48% of energy in comparison to their needs. Energy dependence differs through member states, so Denmark has become the sole exporter of energy, while the other Baltic countries are dependent on a single source of gas distribution. This sector of the EU also featured great needs for investment in infrastructure improvements. The Commission continues here with the investigation

and enforcement of competition law which was confirmed in the case of the Russian Gazprom- who used their position in the market to determine the pipeline map, map supply and price discrimination by tying the price of gas with the price of oil, and Czech national supplier of lignite (CEZ) who discriminated against power plants across the country; When talking about the distribution of gas two models are present. The first consisted of self-selection of suppliers by the user and in accordance with the network characteristics by determining the appropriate price and other terms of the unified distribution and gas prices throughout the EU, where the company is bound by long-term contracts than thirty years.

3.3. Transport

Common transport policy of the European Union was defined by articles 74-84 and accordingly, until the eighties little progress has been made in this sector in the field of competition. Initially, these members have allowed the Commission to use its authority in a competition conducted by road, rail and river transport and the regulation of maritime and air traffic remained due to their complexity so the national authorities of the Member States retained their jurisdictional law in these areas. However, the 1987 decision of the Council of Ministers adopted the rules of competition in the field of maritime and air transport industries. The Commission has had the difficult task of breaking the strong state monopolies and international cartels that controlled everything related to aviation industry and with transport ranging from manufacturing to route flights. Strong companies in the transport sector have lost their reputation because they were not cost-competitors. This, in addition to knowledge of the violation of the competition, discouraged potential customers more and more. Step by step, modeled on the American system of deregulation in this area, the Commission has failed to create a competitive market where every carrier formed a proposition. This enabled harmonization in the performance of all transport activities from passenger transport to logistics because it enabled everyone to do business equally. Strategy for the revitalization of transport at EU level in 1996 enabled the efficient monitoring of state aid and prevented manipulation by price and quality. The main objectives of this strategy are:

- The fight against uneven regulation and barriers to entry,
- Prevention of concentration in the airline sector,
- Equitable distribution of state aid to rail transport,
- Providing equal services and fiscal incentives in maritime traffic by port authorities

CONCLUSION

The European Commission has continued to promote competition policy in 2015 to highlight its importance in the functioning of the EU market. The most important asset of this policy in promoting the single market is anti-cartel policy, the implementation of the regulation of mergers and state aid control policies. After the promotion of the twentieth anniversary of the founding of the European single market and cooperation between the Commission and the national courts of the European Network of competition, there has been a systematic and continuous work to improve the legal framework for specific sectors such as financial services, energy, telecommunications and postal services, the pharmaceutical industry, the market of "smart" phones and electronic shopping, music and IT industries,

and transport. The economic and financial crisis has led to a significant increase in market share of country life businesses with the result that the state aid only in the banking sector from October 2008 to December 2012 amounted to 1.6 trillion euros, or 13% of the GDP of the European Union.

The contribution of state aid policy is crucial for the survival of the integrity of the single market, which led to the fact that member states create a sustainable strategy for state aid policy until 2020. This will help the European Commission to better identify market distortions and direct the "good government assistance," according to regions and companies that will find the proper way to take advantage of these investments. In the end, the Commission launched an ambitious program entitled "Modernization of the State aid" which aims to assist member states in the legal and economic regulation of this aid through budget framework, in a manner that will correct its policy of public expenditure transparency contributing to the development of investment projects of European interest.

REFERENCES

1. Baldwin, R., Wyplosz, C., (2006) The Economics of European Integration, London, McGraw-Hill
2. Begović, B., (2010) Realni sektor, „Institucionalne reforme u 2009. godini“, Beograd, Centar za liberalno demokratske studije
3. Berger, A., Klapper, L., Turk- Ariss, R., (2009) Bank Competition and Financial Stability, Journal of Financial Services Research 21, 849-870 crp.
4. Brittan, L., (1990) The Law and Policy of Merger Control in the EEC, "European Law Review", No. 15(5), Bristol, Sweet & Maxwell
5. Cini, M., McGowan, L., (2008) Competition Policy in the European Union, 2nd edition, Basingstoke, Palgrave Macmillan
6. Craig, P., Grainne, B., (1998) EU Law: Text, Cases and Materials, Oxford
7. Dajković, I., (2002) Antimonopolsko pravo, Podgorica, CID
8. Damjanović, K., Popović, D., (2004) Reforma prava konkurencije Evropskeunije – Uredba broj 1/2003, „Revija za evropsko pravo“, vol. 6, br.1, Kragujevac, Centar za pravo Evropske unije; Beograd, Udruženje za pravo Evropske unije
9. Dinan, D., (2009) Sve bliža Unija – Uvod u evropsku integraciju, Beograd, Službeni glasnik
10. European Commission, (2009) Report on Competition Policy 2008, Brussels, EC
11. European Commission, (2010) Report on Competition Policy 2009, Brussels, EC.

UTICAJ POLITIKE KONKURENCIJE NA DRŽAVNU POMOĆ I JAVNI SEKTOR U OKVIRU JEDINSTVENOG TRŽIŠTA EVROPSKE UNIJE

Kompetitivno i dobro organizovano tržište je imperativ efikasne ekonomije. Prvo, zbog toga što konkurentna tržišta pomažu u korekciji distorzija u okviru proizvodne strukture, što vodi povećanju produktivnosti, i drugo, što jača konkurencija uzrokuje podsticaj proizvođača na smanjenje cena, veći kvalitet i povećanje raznolikosti. Politika konkurencije ima za cilj restrikciju neekonomskih oblika ponašanja privrednih subjekata koja dovode do tržišnih distorzija. U radu će biti prikazane osnovne karakteristike Politike konkurencije Evropske unije kao i njen istorijski razvoj, osnovni elementi i metodološki okvir. Pored toga ovaj rad prati reforme, tendencije u razvoju i primere iz sudske prakse Politike konkurencije Evropske unije sa osvrtom na članove 81. (zabrana restriktivnih sporazuma, tj. kartela) i 82. (zabrana zloupotrebe dominantnog položaja) Ugovora o EU.

Ključne reči: *Politika konkurencije, Evropska unija, restriktivni sporazumi.*