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Challenges and Questions Around Competition Policy: The Hungarian Experience

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Abstract

This Essay is principally about economic policy. It highlights the importance of competition policy and suggests that its weight needs to be increased in the overall economic policy, and specifically in some areas closely related to competition. The increased weight principally means that the objectives of economic policy as public values must be included in professional, political and governmental decision-making. This is not driven by any professional chauvinism, but rather by the political need of necessary interest reconciliation and search for compromise. I also believe that competition policy must be in the same category as monetary, financial, or trade policy.

ESSAYS

CHALLENGES AND QUESTIONS AROUND COMPETITION POLICY: THE HUNGARIAN EXPERIENCE

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INTRODUCTION

This Essay is principally about economic policy. It high-

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lights the importance of competition policy and suggests that its weight needs to be increased in the overall economic policy, and specifically in some areas closely related to competition. The increased weight principally means that the objectives of economic policy as public values must be included in professional, political and governmental decision-making. This is not driven by any professional chauvinism, but rather by the political need of necessary interest reconciliation and search for compromise. I also sincerely believe that competition policy must be in the same category as monetary, financial, or trade policy.

I. *INTERNAL CHALLENGES TO COMPETITION POLICY*

A. *Basic Principles of Competition Policy*

The competition policy of our days evolved in the past one hundred years as a result of changes in the developed regions of the world, and in these one hundred years controversies have prevailed until this day. Still, some principles have become standard, and are not questioned any longer. Therefore, anyone who wants to enforce a modern competition policy has to rely on these recognized principles.

One such recognized principle says that competition policy should protect competition itself, as competition embodies functions conducive to economic and social development. In this sense, competition policy acts against harmful anti-competitive practices, such as cartels and abuses of dominant position, and interferes with the structure of the economy if in the course of purchasing companies, monopolization, and thus anti-competitive practices, are attempted. This undisputed objective, however, is burdened with internal contradictions due to the fact that the assessment of most anti-competitive practices is a complex issue, and cannot be subordinated to any specific interest or principle.

Another generally recognized competition policy objective is the promotion of economic efficiency, which has been analyzed by various economic schools in different ways, some placing the emphasis on static efficiency, others on dynamic efficiency, i.e., the innovative capabilities of the economy. The pursuit of this objective is especially important, and obviously results in conflicts, if increased efficiency involves anti-competitive practices. In the modern world, exclusive agreements and concerted practices will necessarily evolve in the course of business, and they may have anti-competitive effects, but they also contribute to increased welfare. Therefore, in its day-to-day operation, competition policy encounters the conflict between the two fundamental — undisputed — objectives, and we have to use our discretion to find the best solution, socially and economically, at any given time.

Behind the assessment of efficiency and its growth there is a peculiar dispute known as "income allocation." The difference is whether the surplus is retained by the producer or the consumer. In the past decades, it became an accepted competition policy principle that both the seller and the buyer have to get a fair share of the surplus. This requirement in itself may introduce enormous scope for disagreement into the implementation of competition policy principles. The enforcement of the two fundamental competition policy principles is burdened with tensions in the area of natural monopolies, as there is no competition there to start with, and the desired effects of the two fundamental principles must be forced on the natural monopoly by state regulations. In our situation the government plays several roles, and therefore this problem is considerably more complex than in the more developed world. In our case, the government is the owner of the natural monopolies, but if it wants to sell its property, it is interested in achieving favorable sales terms. The government, however, is also forced to maximize budgetary revenues, which results in hiking up the concession fees. On top of all this, competition policy considerations must be enforced through regulations ensuring strict and fair "income allocation." Out of these three roles, competition policy is in conflict with the other two, and obviously a compromise must be reached. As the first two roles, however, involve short term political aims, which are easier to comprehend, it is most certainly the competition policy considerations that will be damaged. We have already encountered this problem; true, we have yet to create the modern regulation of natural monopolies.

B. *Additional Objectives*

The implementation of economic policies in developed countries as well as the social environment of the times forced competition policy to increasingly incorporate so-called public interest functions in its objectives and practice. This is how the protection of small businesses was adopted during the Depression, or fairness as a positive value of consumer societies in the 1960's and the 1970's. There are also examples of the use of competition policy to curb inflation when the anti-inflationary attempts of the government were opposed by monopolies and monopolistic tendencies. Certain compromises, however, have been needed for these "supplementary" objectives and values to be able to coexist with the two fundamental objectives of competition policy, i.e., the protection of competition and the promotion of efficiency. Such compromises generally mean that, judged from competition policy grounds only, the fundamental objectives are damaged, if the above-mentioned so-called social objectives are included in the objectives. Competition policy, however, could not turn a blind eye on social requirements, and our days are increasingly characterized by a competition policy with multiple objectives and natural compromises.

C. *Judicial Transparency Versus Economic Contradictions*

The competition policy conflict between the legal and economic views presents another internal problem. Clearly the above mentioned objectives of competition policy can be realized only if they are protected, and if business practices contrary to these objectives are prohibited or restricted. Laws are enacted for this purpose all over the world. Laws would always require the clear and unambiguous description of violations, but the objectives themselves clearly indicate that in some cases this is impossible, especially where the objectives of competition policy are in conflict with each other. Legal regulations generally solve this problem by giving discretionary powers to decisionmakers in this area, and wherever discretionary powers exist, there will be internal tensions in the judicial practice. It is also clear that the more competition policy gives up the protection of the so-called two fundamental principles, the more conflicts may arise between the legal and economic views. This, however, is an in-house problem for competition policy experts. We tend to have good discussions and write articles about our different views. We also know that there is a strict constraint in the enforcement of competition policy, namely that decisions have to be made before a deadline. Practitioners in this area know how seriously this internal conflict may be taken. Similar to developed countries, our legal system ensures security in law in that the decisions of the Office of Economic Competition, for instance, can be challenged in court. We are aware that the court faces the same challenges in its decisions as we do, and in spite of the aforementioned internal problems the decisions of the Competition Office and the Courts are mostly similar. The situation is similar in developed countries.

D. *Theories of Competition*

Several economic theories provided a basis for competition policy. We can say that several schools of thought have evolved in the past fifty years, the difference between them consisting in the fundamental objective they consider competition policy should protect, and the degree of intervention they consider necessary to reach this objective. There are three schools that are frequently mentioned in literature, and two other schools represent the extreme views. The main tenets of the three most important schools will be discussed here.

The first, the industrial policy and evolutionist school, takes as its starting point that the competitive market structure of the second half of the twentieth century is fundamentally different from the nineteenth century capitalism, and in the present globalized environment the competitive market of earlier times is not only outdated but also impossible to enforce. The integration of government policies and the creation of globally competitive firms is necessary to ensure social and economic welfare. Therefore, competition policy fulfills its role if it helps domestic firms to develop into firms of internationally competitive size in the course of competition, and dismantles any obstacles to this process.

The second, the so-called structuralist school, says that the more concentrated the market structure, the less competition exists. This school therefore considers justified any intervention that eliminates artificial constraints to competition created by firms. Such constraints are most often created on oligopolistic markets, in the form of agreements between firms with large market shares.

The third, the so-called Chicago school, developed mostly on the basis of the criticism of the structuralist approach. This school claims that the restriction of competition emphasized by the structuralists may evolve only in extreme cases, and it cannot be maintained profitably in an open world. The only unquestionable objective of competition policy is economic efficiency, and in most cases even the so-called anti-competitive practices, except price fixing, improve efficiency, and thus increase consumer welfare. Consequently, only minimal intervention can be justified on competition policy grounds.

This oversimplified introduction serves the sole purpose of highlighting the main points in the different approaches. Small countries like Hungary most probably cannot, and should not, follow any of the clear models, but I am not aware of any governments in developed countries, either, that would have committed themselves to one theory. There is good reason for this, as theories and policies have their separate roles. The two should not be mistaken for each other.

Furthermore, the economic theories that provide a "foundation" for competition policy are primarily aimed at antitrust issues, i.e., one part of competition policy, anti-competitive practices or agreements, abuse of dominant position and the control of monopolistic concentrations, and do not deal with business ethics, non-competitive environments, and the extraordinary conditions of the "creation" of competition. Every school takes the existence of private economy and competition for granted. In our country, however, policies promoting the evolution of competition are much more important in the transitory period, and therefore competition policy is an issue for the whole government in this respect.

II. *THE RELATIONSHIP BETWEEN COMPETITION POLICY AND TRADE POLICY*

A. *Markets in Small Countries*

It is often asked which is the most important tool or policy that creates the conditions for competition or ensures its continuation in a small country. This is not a rhetorical question, as there is an important difference between small and large countries in terms of the fundamental factors determining the competitive environment. One such difference is the size of markets and its relationship to capacities. In the United States, for instance, even in a concentrated industry, such as the aluminum industry, the capacity of an optimum sized plan will cover only five to ten percent of the total domestic demand, whereas in a small country the same capacity may produce several times the demand on the domestic market. There are similar characteristics in almost half of the economy under the conditions of modern production.

In the modern, global world a small country, if it wants to produce internationally competitive goods, often has no choice but to facilitate the evolution of internationally optimum sized firms on the domestic market, and at the same time to open up the borders for competition from foreign firms. In Hungary's markets, it is highly probable that only a few participants will evolve relatively soon in about half the sectors, and in some areas only a single producer may survive. This market structure will emerge irrespective of any political or bureaucratic attempts on the basis that any capital invested in the area will yield a return only if the firm is internationally competitive. Under these conditions dominant firms and strict oligopolies must be considered natural, and the only way to force them to compete is trade liberalization. This, however, may result in tensions.

B. *What Are the Main Problems?*

Within the tools of trade policy we can differentiate between the elements representing administrative barriers to entry for foreign competitors, licensing procedure, standards, quotas, etc., and tools that do not raise direct administrative barriers but make imports considerably more expensive or difficult. In extreme cases the latter ones may eliminate competition altogether, such as high tariffs.

Changing the so-called administrative methods in the first category is in the discretionary power of any government. Naturally, international agreements have a binding effect on us, requiring clear liberalization of the present conditions, but if the government wants to eliminate quotas or licensing procedures in a given area earlier, it can do so at any time.

The situation is more complex with the elements in the second category, as they include government regulations such as customs proceedings, anti-dumping, or market protectionist measures, as well as international agreements under which voluntary export or import restrictions are imposed. This category also includes market access agreements concluded by the government, specifying, directly or indirectly, the volume of goods and services in international trade.

Trade policy is disproportionately more important a competitive condition for small countries than for large ones, and therefore anything that trade policy may do to hinder, or prevent, the access of foreign firms to the domestic market, or of domestic firms to foreign markets, deserves special attention for competition purposes. In simplified terms we can say that no matter what barriers the tools of trade policy may raise against the import or export of goods and services on the frontiers, the consumers of the country will have to pay for them either in the form of higher prices or higher taxes. This is not saying that the legitimacy of trade policy should be questioned, but rather that its tools should be put under competition policy control, and we have to consider what we sacrifice with a given trade policy measure and why.

In the past five to six years, the Hungarian market has been opened up to a great extent. This is clearly a benefit for the creation of competition, and liberalization as an objective is fully in line with the objectives of competition policy to protect competition and promote efficiency. The elimination of trade policy barriers will continue in accordance with our obligations under international agreements, which is also favorable. Hopefully, a modern, enforceable anti-dumping and market protection law, in conformity with GATT, will also be soon enacted, which is another laudable development.

There are only a few areas where competition policy continues to run into conflicts, where the principles of other policies are damaged. I would like to highlight two "income allocation" issues, the effects of the protectionism of firms dominant in their business, and the so-called fiscal tariffs.

In order to be able to stand up for the promotion of efficiency resulting from the existence and continuation of competition and the principle of fair allocation of income, competition policy is especially opposed to trade policy barriers if there is a dominant firm on a market.

Barriers to entry are especially objectionable if this is the case in the whole vertical structure, e.g., a single vegetable oil producer and a single margarine producer. In these cases, the trade policy tools restricting market entry are harmful from the competition policy point of view because if the entry of foreign firms is restricted with administrative measures, this may result in the elimination of the need to improve efficiency. If market access is restricted by high tariffs, these firms get extra profits "unnecessarily." If both barriers exist, a very unequal income allocation will result, and the consumers will suffer.

The other income allocation issue questionable from the competition policy point of view is that of the so-called fiscal tariffs. Tariffs are unquestionably fiscal if they are imposed on goods not produced domestically. In these cases the tariffs do not protect anyone, but only serve as a tax on imported goods. The views of the two policies are different on this issue, although there is an economic theory that combines the two nicely, and sees no contradiction. In the objectives of trade policy these tariffs play an important role, namely that they can be bargained about at international negotiations and their reduction may be tied to the reduction of tariffs other countries impose on our goods. Competition policy, however, does not favor either, because in the course of trade negotiations these tariffs change competitiveness without any regard to the efficiency of the sector concerned. In Hungary the situation is further complicated by the fact that due to the budget deficit the government is reluctant to give up any "taxes" that people are already used to, thus do not complain about.

C. *Common Objectives*

Despite their conflicts, competition policy and trade policy can assist each other in reaching their objectives. Obviously the GATT principles in trade policy, national treatment, most favored nation status and transparency, are in line with the objectives of competition policy. It also works the other way around. When competition policy measures are taken to maintain or protect domestic competition, help foreign investments and the adaptation of new technologies, this also favors an open trade policy. Competition policy may help to transfer benefits from competition to consumers even if these benefits arise from trade liberalization or the related structural adaptation.

It is also clear that if competition policy fails to act sternly against anti-competitive practices, it may also hinder trade policy objectives. It is quite conceivable that trade policy has implemented liberalization. We expect increased efficiency as a result, but it is not realized due to anti-competitive practices.

Similarly we can talk about the shortcomings of trade policy hindering the realization of competition policy goals. If, for instance, transparency is missing, even the best competition policy cannot make up for it. Or if interest groups or political forces influence trade policy and divert it from its original objectives, it will hinder competition policy in reaching its objectives. Trade wars and market protectionist measures implemented as an overture to them, or during their course, may lead to clearly anti-competitive results. With trade policy measures governments may create situations that are condemnable on competition policy grounds, but are impossible to contest with competition policy tools. Such situations may arise if companies reduce competition with voluntary export or import restrictions, and if there are government agreements behind such restrictions, even more developed countries refrain from competition control.

III. *CONFLICT AREAS BETWEEN INDUSTRIAL POLICY AND COMPETITION POLICY*

A. *Different Principles*

First of all, it should be noted that by industrial policy we mean not only the government programs and responsibilities concerning the manufacturing industry, but in international usage this term means a business or trade in the general sense of the word. Thus it encompasses practically any activity. The issues and conflicts between industrial policy and competition policy are similar to those outlined in connection with trade policy. There are a few special features, however, that should be highlighted.

We talk about industrial policy if in a given trade, usually pursuant to government decisions, the volume or composition of investment allocation is different from what would result from competitive market processes alone. This definition assumes that industrial policy is a kind of interference into the processes of competition and the market. We should note that in the developed world the politicians and trade circles that consider the monolithic efficiency promotion-function of competition policy important are less than enthusiastic about industrial policy makers claiming that any industrial policy measure is bound to result in lower overall efficiency that the implementation of the mono-objective of competition policy would. In their opinion any industrial policy is against the public interest, as it reduces the total welfare in the economy, or in welfare economics jargon, the amount of the producers' and consumers' surplus.

B. *Common Objectives*

Therefore the issue is to reconcile the different considerations of the two policies in a given country both in the short and in the long term. We can define the range where competition policy and industrial policy share the same goals, and the areas where the objectives and thus the tools are different and lead to conflicts. The overlapping area includes everything that consists in the promotion of the so-called dynamic efficiency, i.e. if, in order to improve international competitiveness, the industrial policy of the government creates an innovative market and production structure which does not make sacrifices in other areas, the industrial policy will be in line with the goals of competition policy. Typical examples include assistance to emerging industries, measures promoting or accelerating the utilization of the results of scientific research, whether subsidies or competition policy measures. Competition policy, for instance, while prosecuting anti-competitive practices, may exempt from the prohibition cartel certain anti-competitive agreements, such as exclusive contracts, harmonization with intellectual property rights, etc., in order to promote the adaptation of the results of research and the acceleration of development. The assumption is that the social and economic benefits of the exemption are greater than its costs.

C. *Potential Conflicts*

Conflicts, however, do not arise from these issues, but arise when altogether different interests appear in the field of industrial policy, in the disguise of industrial policy.

One such traditional conflict arises when public funds are invested in one sector under the auspices of industrial policy, and it is clear that the sector in question will never be competitive under a liberalized trade policy and a clear competition policy. Even in developed countries governments make such decisions under very strong political pressures, and once the government has committed itself, it does not like to see trade policy or competition policy endanger the implementation of its decision.

What generally happens in these instances is that trade policy constructs the walls on the frontiers that will protect the enterprise favored by the government decision from foreign competition. As far as competition policy is concerned, it depends on internal power relations whether it can take measures against the industrial policy decision or it toes the line.

In this respect an interesting situation has emerged in Hungary. On the one hand, the government has signed international trade agreements, the EC Association Agreement, the free trade agreement between the Visegrad countries and the agreement with the EFTA countries, and is a member of GATT, which, if complied with, allow very little discretion for the government in its decisions. If the government were to find itself in a situation where it had to violate international trade agreements in order to implement an industrial policy decision, such a step would not only damage the government's international reputation, but also hinder the county's integration. In this respect the Hungarian economic policy decisions run a course which is different from most countries in the developed world, as some developed countries construct other policies mainly on the foundation of industrial policy-type decisions, and the provisions of international integrations and treaties have tried to place restrictions on these afterwards.

Another special feature of the present situation in Hungary is that even though the government has published a bulky volume on industrial policy concerning the manufacturing industries, which talks about many issues, it does not reveal in which sectors, and from what date, will there be a different investment allocation from what would emerge from competition. The industrial policy contains some commitment to crisis management, and there are some preferences in privatization policy which are relatively closely linked with investment allocation. Apart from these, the industrial policy program is very smooth, thus it does not indicate if there will be any conflicts with competition policy.

The so-called "industrial policy" concerning other sectors can be summarized briefly as follows: Clear and declarative ideas exist about telecommunications, some areas of transportation, road construction and the energy sector. This firm commitment, however, defines the objectives only, as the funding requirement for the development of these areas exceeds HUF 2000 billion at present, and the sources for this financing are unclear. In other words, this makes the investment allocation of the definite program uncertain. The only exception may be telephone services, where the approved tariff regulations ensure this, and in terms of agriculture, in the past four years no professional guidelines were prepared which would indicate allocation commitments and potential conflicts with competition policy. The situation, however, is rather unique, as the theoretically effective agricultural regime may be in conflict with competition policy. In practice we have not had any conflicts as yet as the agricultural regime has not been operational, but in reality, we did have some conflicts in certain areas as the regime is not clear enough.

D. *Public Funds*

Industrial policy decisions tend to have a dual nature. On the one hand, whoever makes the decisions, generally the government, takes into consideration interests that a private owner would not consider, or the order of priority of the decision-making criteria is different, and on the other hand, the implementation generally involves government funding, which is nothing but public funds, i.e. tax revenues or other benefits that are financed from the budget which serves the purpose of the general public good. In simplified terms we could say that industrial policy decisions should be assessed from the point of view of the use of public funds, and we should condemn them only if we have reason to do so because the way the money was spent distorted the competition policy objectives or made them impossible.

The situation in Hungary has the following features. In the past years the budgetary subsidies have considerably been reduced, even eliminated in many areas, which creates the impression that we have little to search for in this area. In accordance with the provisions of the Act on Public Finances, earmarked funds have been set up to provide government subsidies legally. Even though these funds contain relatively little money to spend, the association agreement with the European Communities requires the Hungarian government to disclose the existing system of subsidies, and to approximate them to the principles of the

Treaty of Rome in the framework of defined rules and framework. The principles of the Treaty of Rome "allow" or object to government subsidies on the basis of competition policy assessment, and in the course of decades the present situation evolved where in the member states of the European Communities more subsidies are given relative to the size of the economies than what is available in Hungary from the existing resources. The first review of the Hungarian system of subsidies will soon be completed, therefore for the time being we cannot declare without qualifications that our system of subsidies is in conformity with the EC system.

In the present so-called transitory period we should call attention to two factors related to the potential conflicts between competition policy and government subsidies. One of them is that a considerable proportion of the economy is exposed to a degree of structural transformation and adaptation that it is clearly unable to meet. This results in bankruptcies and liquidations, which represent adaptation in the given circle of enterprises, even if as a result of drastic compulsions.

The other feature is related to debtor consolidation, which program, in my opinion, is one of the most important economic policy decisions in the past four years. It represents the view that half of the economy cannot be rendered inoperative, because this is not simply an economic, but rather a social policy issue. Therefore this program requires sacrifices, which means the expenditure of public money as well as the postponement of some of the burdens to later times. The Hungarian government was clearly forced to launch this program, and has a vested interest in its success.

Competition-distorting public funds are not directly connected to bankruptcies and liquidations, and if some public burdens are indirectly still related, such as tax relief or unemployment benefits, the goal is to choose the solution requiring minimum losses. Such funds raise no competition policy problems on the whole, as they do not unilaterally favor one party in the competition, or provide illegitimate advantages. Competition policy is opposed to these two main types of government subsidies.

The situation is more complex when we get to debtor consolidation as several forms of public funds may be involved, and as a result of the consolidation an artificial situation is necessarily created. It is artificial in that the results are more related to the past than to future competitiveness. Therefore the new starting positions evolving through a series of individual decisions will inevitably be different from the competition point of view, and the objectives of competition policy are also likely to be harmed. Still we have to say that this is a compromise competition policy has to make, because on the whole probably only the worse solution could be chosen. The micro and macro level assessment and success of the debtor consolidation is considerably different. In the micro-economic sense the most important criterion of success is the proportion of the companies involved that will get a real chance to make a new start. In the macro-economic sense success means that the process does not have to be repeated.

In this context we need to point out that our situation is fundamentally different from the developed countries' in the context of competition policy, but in periods when the most developed countries were in structural crisis, competition policy principles were enforced only with many compromises. In developed countries the subsidization of small enterprises, for instance, was incorporated into the goals of competition policy during the structural crises. Still, governments made this decision, and rightly so, because they could solve much greater social problems with it than without it. Therefore we have to say that in the developed world we cannot point to a period when they had a situation similar to the present Hungarian economic and structural crisis, and still rigidly insisted on the exclusive enforcement of the basic objectives of competition policy. This is also only part of the truth. All I am trying to say is that in the objectives of competition policy, and especially in the trade policies, the type and structure of compromises are dictated by the given social and economic environment.

IV. *CHALLENGES OF INTERNATIONAL IMPORTANCE*

A. *Trade and Competition Policy on International Fields*

In the past decade, regionalization, the expansion of integration, and primarily the so-called globalization presented challenges to competition policy. If we look behind the surface of these trends we can also notice that almost all the problems present on the international scene are represented in some manner in the domestic competition policy. We can look at this relationship from the other side, too, as we can talk about the international reflection of the conflicts within national competition policies. The dilemmas are not new, but their concentration is, together with some issues coming to the foreground, others pushed to the background. We should highlight three issues. The international conflicts between trade policy and competition policy. The harmonization attempts of competition policies on the international level. And the reflection of the objective differences between small and large countries in competition policy in terms of influencing market structure.

As is known, international trade policy as we know it today developed historically during the so-called GATT rounds since 1948. GATT achieved extraordinary successes in dismantling the barriers between countries, the transformation of remaining barriers into more liberal forms and the opening of markets. These results greatly contributed to the development of the world, the increase of competition and competitiveness, and the changes in the welfare of countries participating in world trade. At the same time from the mid 1960's it became increasingly apparent that the economic cartels of private firms — and in certain cases of countries — and the anti-competitive agreements of firms have erected walls in front of international trade that in different structures, with different income allocation and different interests partially compensated, in the competition policy sense, for the barriers eliminated by GATT. This process is further complicated by the ruthless competition between the large economic regions of the world, namely the contest between the North American region led by the United States, the European Union, and the Far East led by Japan. Of course it would be naive to believe that the anti-competitive practices of private firms are independent of government policies. What is more, if we were to analyze the approximately three hundred agreements made in the past thirty years which also represent restriction of competition, we would find that governments and significant business circles have an interest in them. This contradiction and conflict with competition policy became a significant factor in recent years, because if we accept that governments have done their best to promote world trade under GATT, it is rather strange that they allowed the anti-competitive practices of private forms to widely develop. There are several possible answers to this question. I would like to call your attention to the fact that by the end of the century a system of international fora has to be created for the solution of this dilemma. UNCTAD and GATT have taken the initiative, and the Competition Policy Commission of OECD also plays an important part in analyzing problems and setting potential tasks. It seems that by the end of the century the leading economic powers will also have an interest in setting up the institutions to handle competition policy on the international level. This was proposed in 1947, and several times subsequently, but it has not been completed until now. It is clear, however, that the reconciliation of the interests of trade policy and competition policy will not be an easy task. It will not be easy because there will necessarily be parties favored by the solutions, and others not so favored. Still, there is hope for coordination as the firms of large economic areas have more and more significant investments and interests in other economic areas, strategic alliances are becoming more widespread, and the necessary coordination has to happen to insure peaceful economic conquest. But the real issue is how the large regions can reduce their own protectionism on the frontiers of the region or within it, how they will allow access to each others market and whether a sociopolitical environment will evolve within the regions that considers this conducive to the public good. Nothing has been decided in this respect yet, it is impossible to say how long this process will take, but the important thing for us is that we are likely to have an interest in actively monitoring such processes and ensuring participation in every possible forum, as the decisions may have a significant influence on our future.

B. *International Challenges*

Competition policy faces international challenges within its own institution, the competition policies of different countries are different in terms of their tools and severity. The requirement of harmonization has also been voiced on several occasions and major results have been achieved since 1986. In the framework of OECD member states have committed themselves to mutually providing information and ensuring a certain degree of coordination. The United States entered into an important agreement on harmonization with the European Communities, and similar agreements were made between the United States, Australia, and New Zealand. These agreements deal with aspects of information exchange and enforcement issues creating better conditions for possible harmonization of substantive law in the future. In the background of professional disputes we find interests and principles rather than economic theories. If a government, for instance, has sovereignly defined its own competition policy, the question is to what extent it can, or should, give up its sovereignty. The main professional dilemma is how to harmonize competition policy in terms of its tools, information content and the internal considerations for competition policy assessment in a manner that is acceptable for an increasing number of countries or regions, knowing that they are competitors and that they want to beat each other in the race. I would also highlight the fact that in addition to the negotiations of individual countries, by their government, the negotiations and agreements of integrations and regions are becoming increasingly important. All this underlines the importance of belonging to an integration in terms of competition policy.

C. *Dilemmas of Small Countries*

The solution of the small country versus large country dilemma is important for us. It is especially important as we are going to become part of a real integration in the future, and it matters a great deal if we manage to implement the structural changes in the transitory period with the minimum problems possible. As a small country cannot attempt to produce everything, inevitably we will increasingly take part in international trade. It is also inevitable, however, that we have to produce goods competitive on international markets with modern capacities and economies of scale. We can safely say that in the short term we will not have a domestic firm that originates in Hungary, gains market shares and grows into a multinational company. Therefore the solution is that the companies that can potentially produce such goods become part of multinational firms and strategic alliances that have already achieved dominance on the globalized market. I do not want to exaggerate the importance of this issue. The example of small developed countries indicates that a significant proportion of their GDP, and especially their exports, comes from such activities. It is also clear that even if we achieve some success in this respect, in the short term the majority of our exports will not consist of such products. This is because as a small country, we have to stay on the market, or gain access to new markets, which requires additional expenditure. If we had such competitive edge as to cover these expenditures from it we would not be where we are now. The more likely scenario is that we have to undertake an additional burden with what is mostly competitive disadvantage. As a result of our situation and the small size of the country this burden is so large that it will damage welfare. The real pitfall is failure to realize the problem, or pretending it does not exist.

One may ask why this dilemma is related to competition policy, and why it has international connotations. It is competition-related because the more seriously we take efficiency as a fundamental objective of competition policy, the more we have to live with the integration that will facilitate efficient production and may happen quickly in the future, as well as the resulting oligopoly structures or dominant positions. The dilemma is whether when assessing mergers we will be able to clearly see if the merger is necessary for international competitiveness and efficiency, and will allow them even if we foresee that they will have anti-competitive effects. The years when the internal goals of competition policy will conflict with each other are ahead of us. Naturally we cannot predict how strong the internal capital concentration process will be, or whether the mergers will be of the conglomerate type, or vertical or horizontal concentrations.

The issue is of international importance because the initiators of concentrations will be multinational or partly foreign-owned firms, which obviously have an interest in conquering the Hungarian market. If competitiveness does not change significantly, the economic balance may be significantly endangered, which will be an absolute obstacle to our joining the European Union. The conflicts between competition policy assessment and the complex set of objectives cannot stay within the frontiers as there is, or will be, foreign interest in every major case.

CONCLUSION

In Article 9 of the Hungarian Constitution, the Republic of Hungary recognizes and supports the right to enterprise and the freedom of economic competition. Article 9 states:

> (1) The economy of the Republic is a market economy in

which public and private property shall be equally respected and granted equal protection.
(2) The Republic of Hungary shall acknowledge and promote the right to free enterprise and the freedom of economic competition.[1]

The change of regime that took place in Hungary in 1990 potentially gave a new substance and form to the operation of the economy. This mainly appears in the facts that parliamentary democracy was called into being within an extremely short time in a peaceful way and the governments which have entered office since then committed themselves to create and operate a market economy. Within this framework shaping a relatively up-to-date competition policy and establishing legal instruments and institutions which could serve the enforcement of this policy — for the first time in Hungary's history — became possible. The main message of this Essay can be summarized as follows:

First, during the formulation and implementation of competition policy in practice all those essential contradictions and conflict zones can be perceived that were to be observed in the countries of the developed world during the last decades. With the motives of contradictions included in the system itself this is true, even if in a given period the laws and government policies containing the aims and tools of competition policy strive to provide transparency. Generally recognized competition policy objectives are the promotion of economic efficiency and protection of the competition itself. In the modern world, exclusive agreements and concerted practices will necessarily evolve in business, and they have anticompetitive effects, but they also contribute to increased welfare. Therefore, competition policy encounters the conflict between the two fundamental — undisputed — objectives, and we have to use our discretion to find the best solution, socially and economically, at any given time.

Second, for such a small and open-economy country as Hungary, trade policy plays a remarkable role in the operation of market and competition. The relatively fast liberalization in the trade policy of the country put an end to the so-called economy of scarcity that was characteristic of the previous regime but contributed also to the manifestation of uncompetitiveness. As a consequence, several companies became bankrupt and this re-

1. HUNG. CONST. (Act. No. 20 of 1949, wording effective Oct. 7, 1994) art. 9(1)-(2).

sulted in significant structural changes that have brought about the shaping of lobbies that are fighting for protectionism. Anything that trade policy may do to hinder, or prevent, the access of foreign markets, deserves special attention for competition purposes.

Third, in Hungary there is no room for a competition policy with industrial policy preferences because the government first of all has no money for industrial policy preferences. The available sources are devoted practically to settling the problems caused by the structural crisis and in this sense they play a passive role from the point of view of industrial policy and an almost neutral one in relation to competition policy.

Fourth, impacts of the worldwide accelerated globalization are significant in Hungary as well, because competition policy faces various international challenges. Maybe the most important issue in this field is that private businesses gaining ground rapidly, together with the globalization processes, have launched a kind of new concentration wave in this country, and in a substantial part of the economy markets characterized by dominant positions respectively strict oligopoly structures are being developed, as a rule. In my view this process is inevitable because Hungary's efforts for the integration and the need for creating competitiveness support this structural transformation.

Finally, this study highlights the importance of competition policy and suggests that its weight needs to be increased in the overall economic policy, specifically in some areas closely related to competition. The objectives of economic policy as public values must be included in professional, political and governmental decision-making.