

Bartels, Andreas; Pleșea, Doru Alexandru; Studeny, Michael; Just, Vanessa

## Article

The Interdependence of Competition Policy, Consumer Policy and Regulation in Introducing and Safeguarding Effective Competition in the EU Telecommunications Market

Amfiteatru Economic Journal

## Provided in Cooperation with:

The Bucharest University of Economic Studies

*Suggested Citation:* Bartels, Andreas; Pleșea, Doru Alexandru; Studeny, Michael; Just, Vanessa (2017) : The Interdependence of Competition Policy, Consumer Policy and Regulation in Introducing and Safeguarding Effective Competition in the EU Telecommunications Market, Amfiteatru Economic Journal, ISSN 2247-9104, The Bucharest University of Economic Studies, Bucharest, Vol. 19, Iss. 45, pp. 367-380

This Version is available at:

<https://hdl.handle.net/10419/169077>

## Standard-Nutzungsbedingungen:

Die Dokumente auf EconStor dürfen zu eigenen wissenschaftlichen Zwecken und zum Privatgebrauch gespeichert und kopiert werden.

Sie dürfen die Dokumente nicht für öffentliche oder kommerzielle Zwecke vervielfältigen, öffentlich ausstellen, öffentlich zugänglich machen, vertreiben oder anderweitig nutzen.

Sofern die Verfasser die Dokumente unter Open-Content-Lizenzen (insbesondere CC-Lizenzen) zur Verfügung gestellt haben sollten, gelten abweichend von diesen Nutzungsbedingungen die in der dort genannten Lizenz gewährten Nutzungsrechte.

## Terms of use:

*Documents in EconStor may be saved and copied for your personal and scholarly purposes.*

*You are not to copy documents for public or commercial purposes, to exhibit the documents publicly, to make them publicly available on the internet, or to distribute or otherwise use the documents in public.*

*If the documents have been made available under an Open Content Licence (especially Creative Commons Licences), you may exercise further usage rights as specified in the indicated licence.*



<http://creativecommons.org/licenses/by/4.0/>

# THE INTERDEPENDENCE OF COMPETITION POLICY, CONSUMER POLICY AND REGULATION IN INTRODUCING AND SAFEGUARDING EFFECTIVE COMPETITION IN THE EU TELECOMMUNICATIONS MARKET

**Andreas Bartels<sup>1\*</sup>, Doru Alexandru Pleșea<sup>2</sup>, Michael Studeny<sup>3</sup> and Vanessa Just<sup>4</sup>**

<sup>1)2)3)4)</sup> *The Bucharest University of Economic Studies, Romania*

## Please cite this article as:

Bartels, A., Pleșea, D.A., Studeny, M. and Just, V., 2017. The Interdependence of Competition Policy, Consumer Policy and Regulation in Introducing and Safeguarding Effective Competition in the EU Telecommunications Market. *Amfiteatru Economic*, 19(45), pp. 367-380.

## Article History

Received: 29 December 2016

Revised: 20 February 2017

Accepted: 3 March 2017

## Abstract

Currently, the European Union finds itself in troubled waters. It has to prove that its benefits outweigh the costs of its endeavour. In this respect, an EU competition policy that focuses on consumer welfare is one way to gain support by the citizens of its member states. The Roaming Regulation that has reduced the mobile communications costs while travelling abroad serves as a good example for this approach. The EU Commission views consumer policy as another important factor to protect and benefit customers. In markets with natural monopolies, the two policies require the support of an effective regulatory policy. The research demonstrates that these three policies – if harmonised – are able to lead to an increase in consumer welfare (primarily by reducing prices) and that they protect the rights and interests of consumers. In the case of telecommunications, several initiatives of the European Commission and of national regulatory authorities to falls in prices and forced operators to implement customer friendly rules and to protect customer data and privacy.

The authors consider that the European Commission has tried to establish and harmonise rules across all member states in order to protect the interests and rights of consumers on the telecommunication market. The enforcement of competition and consumer policy within institutions from the telecom field certainly could promote the focus on consumers and the possibility to use a large “toolbox”. Harmonising and adjusting the policies across different countries and institutions and minimising any possible side effects is nevertheless a challenging task for the EU Commission in the future.

**Keywords:** Competition policy, consumer policy, regulation, European Union, telecommunications

**JEL Classification:** D18, D40, K20, L96.

---

\* Corresponding author, **Andreas Bartels** – andie.bartels@gmail.com

## **Introduction**

The intent of competition policy is to assure that consumers have a wide choice of products and services with prices close to their costs (OECD, 2009; Parnes, 2006). However, competition policy alone is not sufficient to ensure that consumer interests and rights are protected. Products might be unsafe, relevant price information could be missing, standard consumer contracts might include unfair terms and the labels on products could be inadequate or unclear (Buttigieg, 2005). Competition policy alone also does not ensure that customers can change service providers easily. A wide choice therefore does not guarantee that consumers select the product or service they intended to. Here, consumer policies play a central role. The protection of personal data and consumers' privacy is now also a high priority in consumer policies (Parnes, 2006) – especially in a digitalised economy. The EU Commission has placed a stronger emphasis on protecting consumer rights within the last years apparently as to gain support for the European single market (Howarth, 2008).

In liberalised markets with a former natural monopoly – as for example in telecommunications – these two policies have to be supported by regulation as the instruments of competition and consumer policy are limited. The three policies have to be well-designed and balanced in order to achieve the desired goal of consumer (and producer) welfare and to avoid negative side effects.

The commonalities and discrepancies of the three policies and how they can influence each other will be discussed in section 1. This paper also examines the different goals of these policies and the tools they utilise. The methodology of the research will be described in section 2. The analysis of the design and application of the three policies in the European telecommunications industry will be illustrated in section 3. It evaluates their effects especially on consumer welfare and the protection of consumer rights in the European context.

## **1. The link between competition, regulation and consumer policies**

Competition policies, regulation and consumer policies usually reinforce each other, but there are also topics where they collide. Competition policy and consumer interests are now approaching each other more than ever – as regards goals and also institutionally. In several countries – like the UK, Canada, France and Australia – the enforcement of consumer protection and competition laws is handled within one institution which leads to benefits as the policies can be treated as instruments that can be flexibly blended within a common toolbox of policy instruments (OECD, 2009; Parnes, 2006).

The increasing links between competition and consumer policy – with a focus on the European policies – will be evaluated in section 1.1 while the connections between these two policies and regulation will be discussed in section 1.2.

### **1.1. Competition and consumer policy**

An effective competition motivates vendors to outperform their rivals and thus leads to a better end (Vickers, 2002). It will ensure that sellers offer customers not only a competitive price. A competitive company will also try to provide a good quality, ensure a good

customer service with fair terms and conditions in order to retain the customer and to reduce the churn rate. In this respect, an effective competition can decrease the issues for consumer policy (OECD, 2009). An essential way to increase the competitiveness of markets is to augment the basis for consumer choice - policies can fortify the position of consumers inter alia by improving information available to consumers and to reduce switching costs (Vickers, 2002).

The traditional competition policy distinguishes between the following goals and functions of competition (Knieps, 2001):

- Economic freedom (function): protection of the freedom to act on a market and to select a partner;
- Prevention of the emergence and the reduction of not performance-related income (distribution function);
- Adjustment of the supply structure and factor input to changes in demand (allocation function);
- Technical advancement (discovery and progress function respectively).

According to the EU Parliament, the aims of competition policy should focus on protecting the society from detrimental competitive behaviour (European Parliament, 2015). More specific goals are represented in European competition law. The main ones are (Lianos, 2013):

- Consumer protection;
- Freedom to compete on a market;
- Economic welfare;
- Completion of the EU internal market.

The focus of competition policy was - also in the EU - until some decades ago more on issues like mergers, cartels and abusive actions of dominant market players. Competition law has been protecting smaller businesses against larger companies and other social and political goals other than consumer welfare were followed (Buttigieg, 2005). In this respect, several early decisions of the European Commission also focused on protecting smaller companies or less efficient businesses – to the disadvantage of economic efficiency and consumer interests (Buttigieg, 2005). Competition policy in this sense underwent an evolution- while it was based on different rationales in the past, the focus is now primarily on the increase of consumer welfare (OECD, 2009). Competition is nowadays more and more conceded as a central consumer issue (Vickers, 2002). Nevertheless, it should be kept in mind that putting consumer welfare in the heart of competition law involves distributional concerns e.g. shielding vulnerable consumers (Monti, 2007).

Consumer interests are usually not as capable as producer interests in getting their voices heard in competition matters (Vickers, 2002). This opens up the opportunity for the EU to act in the interest of consumers. Economic welfare and consumer protection have become more important and central in the EU within the last years as here progress is still possible and necessary. The EU Commission is responsible for the implementation of the competition policy (Wise, 2007). It has experienced a large autonomy in the development and enforcement

of competition policy. Other EU institutions and the national governments of the member states do not possess formal instruments to intervene (Guidi, 2015). In order to correct or discourage an abuse of dominance, the EU Commission holds a large array of remedies - financial sanctions and behavioural orders remain the primary ones (Wise, 2007).

Concerning the EU-wide implementation of competition policy a study of Central Eastern European countries - encompassing inter alia Romania, Hungary, Poland and Czech Republic - in connection with the EU accession process revealed that also the relatively new EU members successfully established the EU competition policy (Hölscher and Stephan, 2004).

There are some core issues where consumer and competition policy overlap (Parnes, 2006):

- Price;
- innovation;
- truth (by the seller in dealings);
- choice (a large assortment of products and services).

Competition policy is not as diverse as consumer policy (OECD, 2009). Consumer policies govern inter alia the interaction, the exchange of information and the relationship between buyers and sellers. Laws and regulations inter alia protect consumers against fraudulent behaviour of sellers and assure that the consumer obtains all relevant legal information in order to make (at least in theory) a well-balanced buying decision.

Consumer policy did - in practice - not play a role in the neoclassical theory (Oehler and Reisch, 2008). Consumer protection is included in the EU Treaty and is therefore the responsibility of the EU. Article 169, paragraph 1 states: "In order to promote the interests of consumers and to ensure a high level of consumer protection, the Union shall contribute to protecting the health, safety and economic interests of consumers, as well as to promoting their right to information, education and to organise themselves in order to safeguard their interests."

Since the 1990s, the strategy on single market and competition policies of the EU Commission has given increasing importance to consumer interests - although the focus was more on product and food safety at the beginning (Howarth, 2008). It appears that this increased effort is mainly based on the notion of getting support for the European idea. The Commission seems to react to the worries of citizens in respect to the social and economic consequences of liberalisation and globalisation - and aims with this message at citizens that traditionally did not consider the EU market integration as beneficial for them (Howarth, 2008). A different concept of "the consumer" should nevertheless lead to a heightened alertness as this frequently marks a turning point in politics (Oehler and Reisch, 2008).

The EU Commission can enact Directives and Regulations in order to protect consumers. However, while the Commission is in the position to act on competition issues and apply competition policy directly, this does not pertain to consumer protection - here, the enforcement occurs at the national level (Wise, 2007). Competition policy is enforced via administrative procedures and decisions by courts. Consumer policy is much more varied in its tools, forms and impact. Some measures are quite soft as for example the information of

consumers. Not only the EU and national governments are involved in consumer policy. NGO consumer institutions are also often engaged in shaping consumer policy (OECD, 2009) and in protecting the rights and interests of consumers.

According to Vickers (2002, p.142), competition and consumer policy need to be viewed as “inextricably linked and interdependent”. They need to work harmoniously together - otherwise they could work contradictorily and actually undermine each other (Parnes, 2006). It should also be mentioned that consumers are the only economically important group that is not organised or at least not very effectively (Oehler and Reisch, 2008).

Behavioural economics offers chances for integrating the two policies (OECD, 2009). It emphasizes the influence cognitive limitations exert on consumer choice. Consumers will not always act and decide rationally due to this imperfection. Even educated consumers display a systematic and substantial deviation from the rational and wise consumer - they are led by spontaneous emotions and consumers are dependent on the force of the situation i.e. the influence of groups, situational time pressure, the influence of sensory stimuli at the point of sale, the complexity and the form of representation of the information they receive and the currently experienced feelings (Oehler and Reisch, 2008). The designers of consumer policies need to be aware of these facts as consumers display a bounded rationality. More information might not always solve these limitations that prevent a sound decision on the side of the consumer. On the contrary: too much information might lead to confusion and a mental overload that consequently leads to the refusal to give attention to the offer (Oehler and Reisch, 2008).

In addition, economists have long understood that (the gathering of) information is imperfect and costly (OECD, 2009). Should consumer policy therefore take a more paternalistic approach? This could limit choice or lead to regulatory errors - and sets aside the primary confidence on competitive markets as the instrument to empower consumers (OECD, 2009). There still exists little empirical evidence on the costs and benefits of a (regulatory) intervention based on information from behavioural economics which leads to the fact that it is still not widely used (Oehler and Reisch, 2008).

The question also exists if consumers should be protected against all pitfalls that sophisticated consumers are able to see. The “hidden” costs for luggage, insurance, credit card charges, seat reservation etc. during the booking of a flight on a website are an example of this. A great paternalism in consumer policy might prevent negative effects especially for vulnerable consumers. Nevertheless, at least some topics may be best left for the competitive process by guaranteeing that competitive forces are effective (OECD, 2009). The weakest and/or badly informed consumers should be protected against serious negative effects, but a consumer policy should not prevent that consumers who are willing to invest time and energy to search for information are compensated for this search (OECD, 2009).

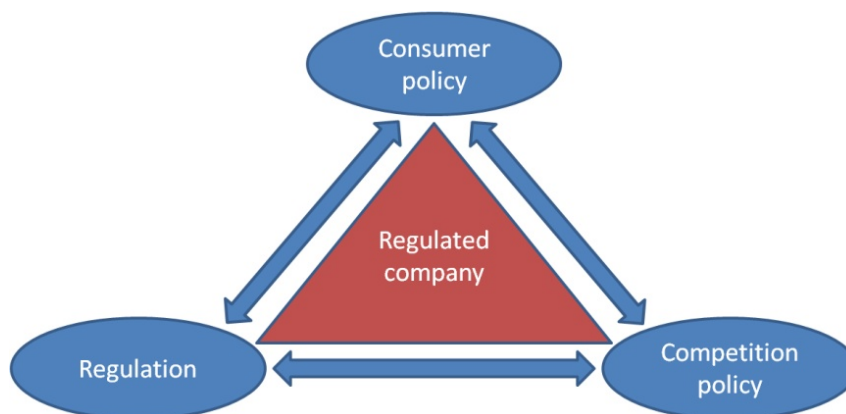
There is the risk that a paternalistic approach to consumer policy endangers the benefits of competition. Markets are more and more interwoven in a globalised economy, so that paternalistic approaches may be justified, but not all of them may be socially (and economically) desirable (OECD, 2009). Rules for occupational licensing, for product standards and restrictions on advertising might protect consumers, but they may also restrict competition (OECD, 2009).

## 1.2. Regulation and its link to competition and consumer policy

In general, liberalisation increases choices and decreases prices for consumers (Parnes, 2006). In the EU, deregulation led to the introduction of competition in many former monopolistic markets - e.g. in energy (gas, electricity), postal services, telecommunications, air travel.

In order to achieve these gains, a regulation of the incumbent is necessary. A natural monopoly with network externalities embodies the difficult task for competition authorities and regulators to shrink the market power of this company. A period of statutory protection creates challenges as an incumbent company usually acquires significant financial and technical advantages as well as political influence and expertise during this time (Kay and Thompson, 1986).

In markets that are opened up, the duty of ensuring (the introduction of) an effective competition is typically shared between the competition and a sector-specific regulatory authority. Regulation - in cases of former natural monopolies - focuses primarily on pricing, non-discrimination and the granting of access (for competitors) to essential services and network elements of the incumbent. (figure no. 1)



**Figure no. 1: The regulated company within a triangle of competition, regulation and consumer policy**

Consumer protection is important also in liberalised markets- not only the incumbent might introduce unfavourable terms and conditions, reduce the quality of service or hide certain information, but also the new entrants might play unfair in order to gain market shares. New competitors might not live up to their promises in advertisements or deliver a bad quality of service or unsafe products. Incumbents might also be tempted to lock-in customers - e.g. by termination penalties or to use tactics that are not completely coherent with common business practices (OECD, 2009). National Regulatory Authorities (NRAs) are therefore also responsible for the protection of consumers. Typically, the EU sector-specific Directives on regulation also include provisions and rules concerning the protection of consumers - e.g. concerning personal data, privacy and rights for arbitration in the case of disputes with a service provider.

A study of the UK energy markets displayed that despite they supplied a homogeneous product and no fees for a transfer to a competitor were involved many consumers considered the search and switching costs higher than the benefits of staying with the incumbent supplier (Giulietti, Price and Waterson, 2005). This led to the fact that the incumbent was able to maintain a price level significantly above the ones of entrant firms without risking that a significant number of customers switch. People with experiences of switching suppliers were more prone to swap suppliers. In this respect it is also important to mention that active customers that switch to new entrants foster competition. Consumers need to use their choice in order to make deregulation beneficial (Giulietti, Price and Waterson, 2005).

After the liberalisation of a market, the incumbent and/or the competitors may offer “sophisticated” pricing schemes that could be confusing and hard to compare with other offers (OECD, 2009). However, consumer protection might not always be necessary. Some competitors might see it as a competitive advantage to concentrate on plain, easily understandable and well-structured pricing plans that reduce the search costs for consumers. An example is flat rates in telecommunications which are now dominating many European markets - after a time of confusing pricing plans.

Sectors like telecommunications show a high level of innovation and technological advancement which should lead to - at least partly - a successive dissolution of monopolistic bottlenecks (Knieps, 2001). For this reason the necessity of regulatory interventions needs to be evaluated regularly.

## **2. Methodology of research**

There is a vast literature about regulation, competition policy and consumer policy - usually independently of the other policy. In the last years, the common goals of and the differences between competition and consumer policy have received increased attention in the academic realm. However, regulation tends to be often neglected in this discussion.

The focus of this paper is mainly on consumers and the effects the different policies and regulations exert on consumer welfare. The prices for telecommunications services are a main criterion in determining consumer (and producer welfare) - e.g. prices for mobile and fixed network communication. The prices were analysed in respect to the influences of competition and consumer policy as well as of regulation. However, prices are not the only indicator to determine if the rights and interests of consumers are protected. In the research it was essential to find out if all citizens have access to at least basic services and if their privacy and personal data are protected. It was also important to determine if policies ensure that terms and conditions are favourable to consumers and prohibit for example the lock-in of customers. The EU Directives and Regulations and the respective enforcements of them should give an answer to this question.

The following considerations and findings are based on statistic data provided by EUROSTAT for the period between 2004 and 2015. Data are calculated by national statistics institutes. It should be noted that national indicators published by Eurostat according to this common methodology are not necessarily identical to the results published by national statistical institutes for national purposes. The number of states taken in account



varies in this period of time: from 15 member states before 2004, to 28 member states from 2013.

### 3. The research results

The aim is to evaluate the effects the European policies exert on consumer welfare and on the protection of consumer rights and interests. Telecommunications is taken as a reference for a sector that is still regulated in several markets. The Mobile Roaming Regulation will be of particular interest as it is special in its design.

Several EU Directives led to the liberalisation of the telecommunications markets. Directive 96/19/EC of 13 March 1996 was the last step in a process requiring the member states of the EU to open up their markets entirely by 1 January 1998. Competition and regulation go hand in hand in Europe. In telecommunications, the Framework Directive requires that the National Competition Authority (NCA) and the NRA provide each other the necessary information for the application of the rules of that Directive and the Specific Directives. The Framework Directive also requires that both institutions cooperate on the market analysis - where appropriate.

In all EU member states the incumbents are still regulated by the national regulatory authorities and therefore the latter exert a direct influence on the consumer and producer welfare. The respective authorities are listed in (table no. 1).

**Table no. 1: National regulatory authorities**

EU country	Regulatory authority for telecommunications
Austria	Austrian Regulatory Authority for Broadcasting and Telecommunications (RTR-GmbH)
Belgium	Belgian Institute for Postal services and Telecommunications
Bulgaria	Communications Regulation Commission
Croatia	Croatian Regulatory Authority for Network Industries (HAKOM)
Cyprus	Office of Electronic Communications & Postal Regulation (OCECPR)
Czech Republic	Czech Telecommunication Office (ČTÚ)
Denmark	Danish Business Authority
Estonia	Estonian Competition Authority
Finland	Finnish Communications Regulatory Authority (FICORA)
France	Autorité de Régulation des Communications Électroniques et des Postes (ARCEP)
Germany	Bundesnetzagentur (BNA)
Greece	Hellenic Telecommunications & Post Commission (EETT)
Hungary	National Media and Infocommunications Authority (NMIAH)
Ireland	Commission for Communications Regulation (ComReg)
Italy	Autorità per le Garanzie nelle Comunicazioni (AGCOM)
Latvia	Public Utilities Commission (PUC)

EU country	Regulatory authority for telecommunications
Lithuania	Communications Regulatory Authority (RRT)
Luxembourg	Institut Luxembourgeois de Régulation (ILR)
Malta	Malta Communications Authority (MCA)
Netherlands	Autoriteit Consument & Markt (ACM)
Poland	Office of Electronic Communications (UKE)
Portugal	Autoridade Nacional de Comunicações (ANACOM)
Romania	National Authority for Management and Regulation in Communications of Romania (ANCOM)
Slovak Republic	Regulatory Authority for Electronic Communications and Postal Services (RÚ)
Slovenia	Agency for communication networks and services of the Republic of Slovenia (AKOS)
Spain	Comisión Nacional de los Mercados y la Competencia (CNMC)
Sweden	Swedish Post and Telecom Authority (PTS)
United Kingdom	The Office of Communications (OFCOM)

*Source: created by authors, based on European Commission, 2016*

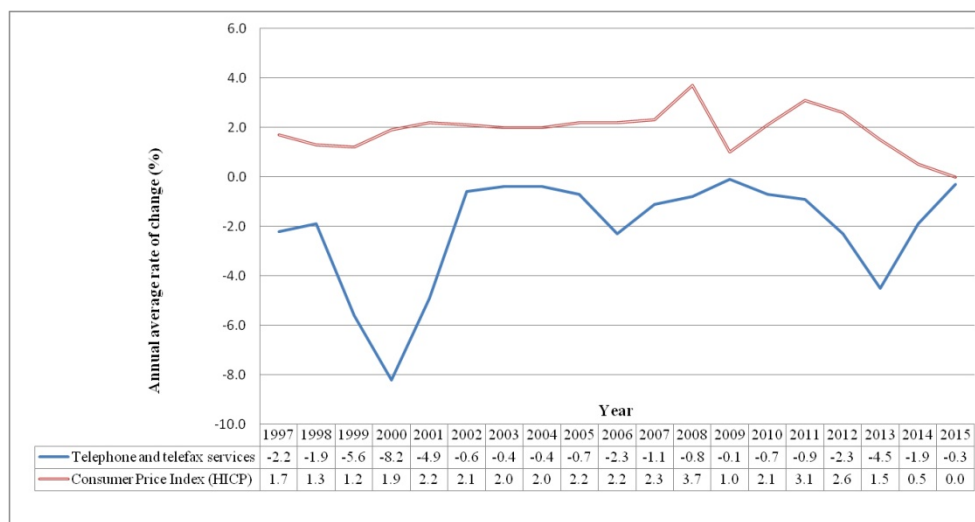
The EU Directives and Regulations are pushing the national markets towards a common EU telecommunications market with the same rules applied at all European member states. Besides introducing and safeguarding effective competition, these Directives and Regulations are forcing the above mentioned NRAs to increase the welfare of consumers.

The main duties of ensuring an effective competition within the regulated industry are performed by the NRA – and not by the NCA – as long as effective competition does not exist in all markets within the telecommunications sector. If a NRA determines that a relevant market is not effectively competitive it will impose on the supplier(s) with significant market power specific regulatory obligations (Article 16(4) Framework Directive). The following obligations can inter alia be applied by the NRA in this respect (Articles 9-13 of the Access Directive):

- Transparency;
- Non-discrimination;
- Accounting separation;
- Granting of access to and use of specific network facilities;
- Price control and cost accounting obligations.

As can be seen in figure no. 2, regulatory measures and the competitive threat have permanently decreased the prices for telecommunications services within Europe in the period 1997-2015. In contrast to this, the Harmonised Indices of Consumer Prices (HICP) display continuous consumer price increases within this time period (except for 2015 where no price increase was noted). On average, the telecommunications companies were able to

reduce their prices within all these years. Without the regulatory pressure, these positive effects for consumers would not have been possible.



**Figure no. 2: Consumer prices and prices for telecommunications services in Europe<sup>1</sup>**

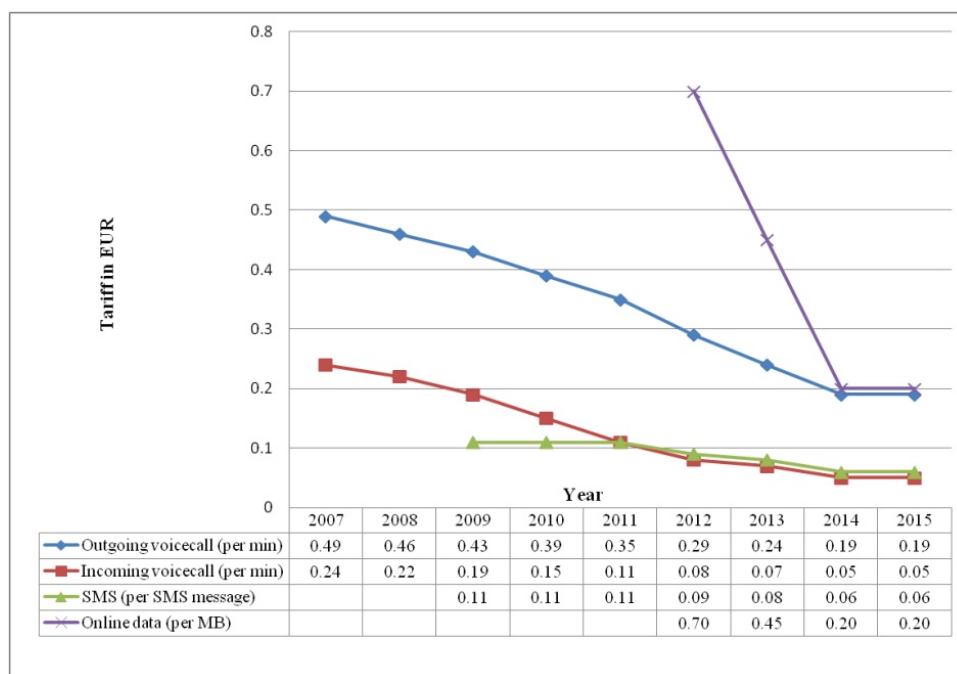
*Source: created by authors, based on Eurostat, 2015*

The Roaming Regulation is a good example of a policy that has increased the welfare of consumers which neither competition policy nor the current regulatory system could have achieved alone as the issue is an international topic and not just a pure national one that could have been handled by NRAs. Regulation (EC) No. 717/2007 came into effect in 2007. At that time prices for roaming were still relatively high. Several customers came back from a trip within the EU and got a price shock when they opened the invoice of their mobile operator.

The Roaming Regulations were modified the last time by Regulation (EU) 2015/2120 in November 2015. In several steps they have reduced the roaming charges for consumers (and as a prerequisite also the wholesale charges the operators charge each other). As of 15 June 2017, operators are not allowed to charge extra roaming fees for calls, outgoing text messages (SMS) or online data when their customers are travelling within the EU. However, there will be a fair use policy in order to avoid the abuse of these rules.

The price caps for consumer tariffs (2007-2015) in figure no. 3 display the steep decrease of the roaming prices. Price caps for SMS and online data were introduced in 2009 and 2012 respectively. For 2016 a different model - surcharges on top of the domestic prices - was introduced which therefore did not fit in the framework of figure no. 3. For outgoing voice calls the maximum surcharge is 0.05 EUR (per min), for online data 0.05 EUR (per MB), for SMS 0.02 EUR (per SMS message) - only for voice calls received there is no surcharge; here, the maximum price is 0.0114 EUR (per min) - all prices excl. VAT.

<sup>1</sup> Number of included member states: EU15-2004, EU25-2006, EU27-2013, EU28



**Figure no. 3: EU retail price caps for roaming tariffs (EUR excl. VAT)**

*Source: created by authors, based on EU Roaming Regulations of 2007, 2009 and 2012- these sources are not cited in the references list*

The Roaming Regulation is not a pure consumer policy - it leads to a regulation of all mobile operators within the European Union. It exerts a direct influence on the revenues of the companies. While the NRAs are the competent bodies for the regulation of companies within the respective country, the Roaming Regulation applies to all European mobile operators.

The users' rights in the EU are specified inter alia in the Misleading Advertising Directive, the Unfair Commercial Practices Directive, the Distance Selling Directive and the Regulation on co-operation in consumer protection. In addition, the EU employs a dedicated consumer policy for telecommunication services. The assumption is that an effective competition in this industry does not necessarily warrant that requirements of consumers are fulfilled and their rights protected. Consumer rights within this regulatory framework rest upon three regulatory Directives (and some additional regulations and decisions):

- Framework Directive;
- Universal Service Directive;
- Directive on Privacy and Electronic Communications.

According to Article 8(2) of the Framework Directive, the regulatory authorities have to foster competition inter alia by "ensuring that users, including disabled users, elderly users, and users with special social needs derive maximum benefit in terms of choice, price, and

quality”. Article 8(4) supports the consumer interests and rights as it obligates the NRAs to ensure inter alia the access of citizens to a universal service and a high level of protection of privacy and personal data, to promote the provision of clear information especially concerning the transparency of prices and conditions as well as to protect consumers in their dealings with the providers.

The Universal Service Directive demands from the member states that every user can access basic communications services (as telephone and internet services) at an affordable price and at a reasonable quality - regardless of geographical location. The Directive also requires that people with special social needs or low income get access to publicly available telephone services. However, mobile communications and broadband internet are currently not considered to belong to a basic communication service. The NRAs monitor the development of services and prices. If a member states violates the Universal Service Directive, the EU Commission can take legal action against that state. The member state is held liable, not the NRA.

The Universal Service Directive also specifies in Article 20 that the minimum service quality levels have to be specified in the contract as well as the details of prices and tariffs. Article 30 contains provisions facilitating the change of provider. It also specifies that a contract cannot mandate an initial commitment period that exceeds 24 months and that undertakings must offer users the possibility to subscribe to a contract with a maximum duration of 12 months. The member states are also responsible for the availability of a transparent, non-discriminatory, simple and inexpensive out-of-court dispute resolution (Article 34).

The Directive on privacy and electronic communications harmonises the national provisions in order to guarantee an equivalent level in the protection of fundamental rights and freedoms, and notably the right to privacy. The member states have also to ensure that the confidentiality of communications is guaranteed.

The results of the research on behavioural economics have found their way in the policy design of the EU. An example of this is the ban of pre-ticked boxes (also called “default options”) on websites for extra charges in addition to the remuneration for the seller's main contractual obligation (Article 22 of the Consumer Rights Directive 2011/83/EU).

It is obvious that the European Commission has tried to establish and harmonise rules across all member states in order to protect the interests and rights of consumers. Nevertheless, there are different institutions involved for safeguarding competition and regulating the respective industries -as the European Commission, the NCAs and NRAs. In addition, the topic of consumer protection is handled by varied organisations involving also NGOs. The enforcement of competition and consumer policy within one institution certainly could promote the focus on consumers and the possibility to use a large “toolbox”. Harmonising and adjusting the policies across different countries and institutions and minimising any possible side effects is nevertheless a challenging task for the EU Commission in the future.

## Conclusions

As a conclusion of this research we can argue that the consumer policies and the protection of consumer rights and interests have become more important within the last years. Competition policy has accordingly moved towards the aims of consumer policy. Both overlap in many areas although some points of divergence remain. Standards in the fields of licensing, advertising, labelling and product quality that are set too high might protect consumers, but could lead to negative effects on competition - e.g. prevent the introduction of cheaper products, the entrance of new competitors and more comparative advertising. Consumer policies have to find a way that protects the naive customer against a negative outcome, but they should also reward consumers who invest time and energy to find the best offers. Consumer policy should therefore not be too paternalistic.

Also the authors consider that regulatory and competition policies work well together within the EU. Regulation sets consumer welfare and consumer rights to a large extent at its centre of attention. The Roaming Regulation is a good example of how the EU Commission managed to combine regulation and consumer welfare that traditional regulatory policies would not have been able to achieve. Overall, the EU policies in the areas of competition, regulation and consumer have led to significant price reductions that increased consumer welfare. At the same time, Directives and Regulations have ensured that customers are able to access telecommunications services nationwide and that their rights and interests are protected.

From the data processed by the authors appears that in telecommunications market liberalisation has led - besides the mentioned price reductions - also to innovative services (for example based on the internet and mobile communications). Liberalisation has not only benefited consumers who by now can afford to own a mobile phone, but also companies who transport goods cheaper and have been able to reduce their costs of electronic communication.

Behavioural economics has also found its way into EU consumer protection. The topic is nevertheless still in its infancy. The expectation is that behavioural economics plays a larger role in the near future as also the EU Commission discovered its potential for designing better consumer policies. Further research is needed as to ensure the findings are generally applicable for consumers of different countries with a different buying behaviour influenced by their specific traditions and mentalities. Results of psychological field studies need to be robust and generally applicable in order to be accepted in economics.

## References

- Buttigieg, E., 2005. Consumer and competition policies: synergy needed. *Consumer Policy Review*, 15(5), pp. 192-197.
- European Commission, 2016. *National Regulatory Authorities*. [online] Available at: <<https://ec.europa.eu/digital-single-market/en/national-regulatory-authorities>> [Accessed 19 December 2016].
- European Parliament, 2015. *Challenges for Competition Policy in a Digitalised Economy*. [pdf] Brussels: European Parliament. Available at: <<http://www.europarl.europa.eu/studies>> [Accessed 5 December 2016].

- Eurostat, 2015. *Eurostat*. [Data > Database > Harmonised index of consumer prices (HICP)] Eurostat. [online] Available through: European Commission <<http://ec.europa.eu/eurostat/web/main>> [Accessed 19 December 2016].
- Giulietti, M., Price, C.W. and Waterson, M., 2005. Consumer choice and competition policy: a study of UK energy markets. *The Economic Journal*, 115(506), pp. 949-968.
- Guidi, M., 2015. The Impact of Independence on Regulatory Outcomes: the Case of EU Competition Policy. *JCMS: Journal of Common Market Studies*, 53(6), pp. 1195-1213.
- Hölscher, J. and Stephan, J., 2004. Competition Policy in Central Eastern Europe in the Light of EU Accession. *JCMS: Journal of Common Market Studies*, [e-journal] 42(2), pp. 321-345. <http://dx.doi.org/10.1111/j.1468-5965.2004.00490.x>.
- Howarth, D., 2008. Internal Policies: The Commission Defends the EU Consumer. *JCMS: Journal of Common Market Studies*, 46(s1), pp. 91-107.
- Kay, J.A. and Thompson, D.J., 1986. Privatisation: A policy in search of a rationale. *The Economic Journal*, 96(381), pp. 18-32.
- Knieps, G., 2001. *Wettbewerbsökonomie*. Berlin Heidelberg: Springer-Verlag.
- Lianos, I., 2013. Some Reflections on the Question of the Goals of EU Competition Law. *CLES Working Paper Series*, [e-journal] 3(January 2013), pp. 1-65. <http://dx.doi.org/10.2139/ssrn.2235875>.
- Monti, G., 2007. *EC Competition Law*. Cambridge: Cambridge University Press.
- OECD, 2009. *OECD Journal: Competition Law and Policy*. [pdf] OECD. Available at: <<https://www.oecd.org/oecdjournal/38956797.pdf>> [Accessed 25 December 2016].
- Oehler, A. and Reisch, L.A., 2008. *Behavioral Economics – eine neue Grundlage für Verbraucherpolitik?* [pdf] Berlin: Verbraucherzentrale Bundesverband e.V. Available at: <[http://www.vzbv.de/sites/default/files/mediapics/studie\\_behavioral\\_economics\\_12\\_2008.pdf](http://www.vzbv.de/sites/default/files/mediapics/studie_behavioral_economics_12_2008.pdf)> [Accessed 8 December 2016].
- Parnes, L.B., 2006. Competition and consumer protection. *Consumer Policy Review*, 16(5), pp. 189-192.
- Vickers, J., 2002. Healthy competition and its consumer wins. *Consumer Policy Review*, 12(4), pp. 142-147.
- Wise, M., 2007. Competition Law and Policy in the European Union (2005). *OECD Journal of Competition Law and Policy*, 9(1), pp. 7-80.