

The background of the slide is a light gray gradient with several realistic water droplets of various sizes scattered across it. The droplets have highlights and shadows, giving them a three-dimensional appearance. The main title is centered in a large, black, serif font.

The competition enforcement design in the EU at crossroads

”Either it is revised but nothing changes or it is not revised but than something will change, here and there” – Luca Caragiale,
Romanian theater author



Independence from who?


Government/Politics

Business/Vested interests

Consumers



What independence is?

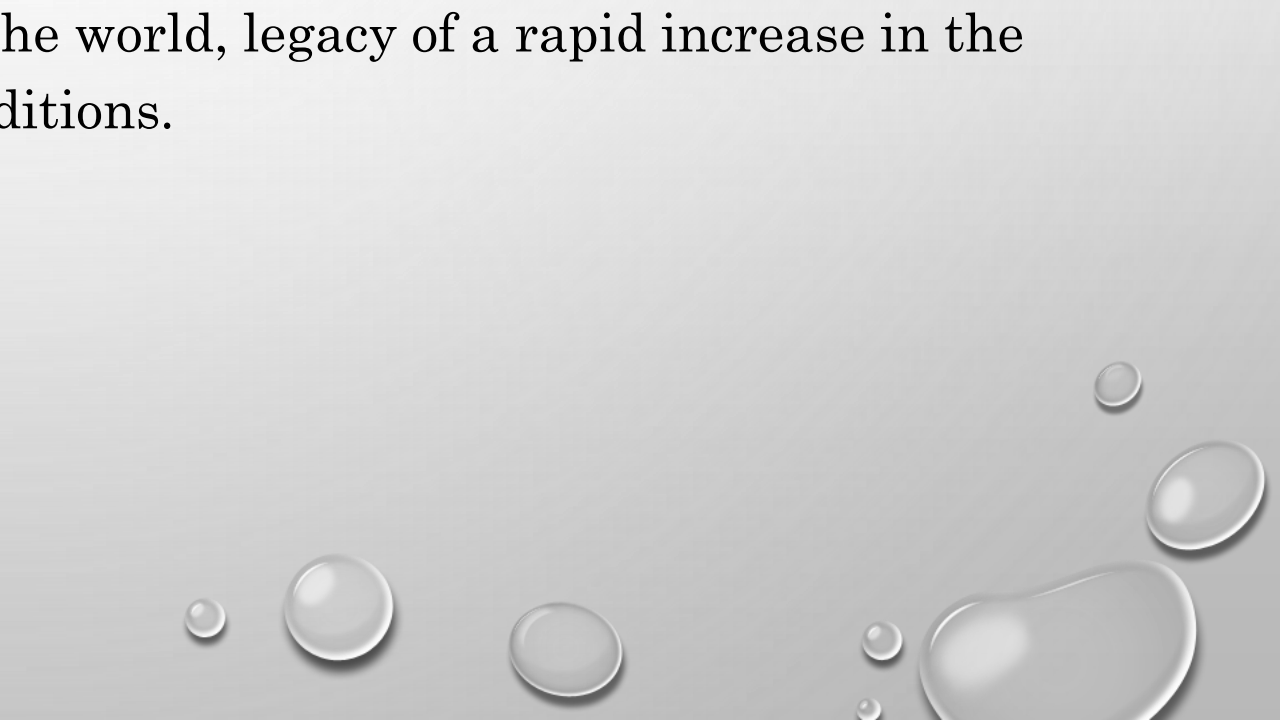
- Structural – where the agency is located
 - Operational/organisational – how it is built
 - Financial – perhaps the most important
 - Intellectual – belief in competition, as a process, and in competition rules, as a fix for the shortcomings of competition
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”By establishing an independent agency the state has made a credible commitment to a particular economic order, and this creates stability, facilitating investment, knowing that the state will not meddle. this is particularly important if the jurisdiction in question had tolerated anticompetitive practices in the past: creating an independent agency is a powerful statement about change in the economic constitution. it is also said that this insulation removes lobbying and rent seeking by business and other interests.... the single most important feature of a competition system that serves to stimulate foreign investment is the perception that the rules are applied by an independent authority in a matter which is fair and susceptible to judicial review.”

– Giorgio Monti, Professor of competition law at EUI (2014)




Structural – the legal form of the competition agency.

- There is a large variety of legal forms in the world, legacy of a rapid increase in the number of agencies, culture and legal traditions.
 - Best structure is a court of law.
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Operational – the most difficult to achieve

- How free is the agency to follow its own enforcement agenda
 - How free are the investigators to investigate and bring their own conclusions – independence of the case-handlers
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INDEPENDENCE DAY

Financial

- a competition agency is usually a lucrative part of the public administration.
- it is important also how the budget is allocated internally.
- it should not come from the fines it applies.

What happened in Romania

- First competition enforcer was a division in a ministry
- The first competition authority was created in 1997 and it was rather well staffed and financed.
- The budget increased over time and guarantees were created to insulate the activity of the competition agency from political and business influence.
- The way the members of the board, including the president, are appointed may serve as a model for all of the EU.

The proposed ECN+ Directive – some pros and cons

- No substantial changes – still two-tier legislation, although identical.
- No structural changes – NCAs should become, de facto or de jure branches of the EU Commission.
- No enhanced rights of defense and due process.

The image features a light gray background with a subtle, circular, embossed-like pattern in the center. The corners are decorated with several realistic water droplets of varying sizes, some overlapping, creating a clean and modern aesthetic.

THANK YOU FOR YOUR ATTENTION!