

MICHAEL E. PORTER'S CONCEPT OF COMPETITION IN THE CONTEXT OF THE EU INTERNAL MARKET PROTECTION SYSTEM

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Introduction

The conferring of the highest academic title by the University of Economics in Poznań, an honorary doctorate, upon professor Michael E. Porter (19 March 2019) provides an opportunity and encouragement for undertaking the problem defined in the title of this paper. The paper aims to reflect on issues related to competition protection systems and market policies in the European Union from the perspective of Porter's concept of competition strategy. Also, it presents Porter's Five Forces in the context of specific legal regulations concerning competition-related behaviors of companies on the EU internal market. These regulations, as a component of institutional economics, create a framework for possible and legally accepted competitive strategies adopted by companies in specific markets and industries. The problem identified in the title is complex and multidimensional. The limited space of the paper allows for presenting just a selected, the most crucial problems and considerations which relate to three main below presented themes. The first one focuses on an outline and major components of Porter's competitive strategy. The presented analysis is not a critical study of competitiveness, but rather a selective approach to various forms of rivalry and, simultaneously, cooperation of companies reflected in competitive strategies. The second theme refers to the elements of the architecture of the European market's competition protection system. Attention is given to those elements that correspond to Porter's competition theory. They refer to the legal framework of companies' market behavior and forces within a sector – the determinants of their market behavior. Also, they concern an indirect regulation which sets forth principles for public aid for the business sector.

The presented considerations refer to the driving forces of competition – the rivalry of companies within an industry in Porter's model, and specific forms of cooperation with suppliers and buyers. Under the third major theme I present the cases of EU market and competition protection policies, referring to the selected forms of and strategies for breaching EU law, and the European Commission's response to such cases (Fig. 1).

Porter's concept of competition – theoretical framework for the strategy and analytical methodology standards

A theoretical framework for analyzing companies' strategies in particular industries – market segments, the forms of rivalry in various market conditions, and the conditions and determinants of achieving corporate objectives – is the area of research studies and expert analyses that corresponds to professor Porter's scientific accomplishments.

Porter's concept of competition fits in with the process of identifying and explaining the mechanisms of market rivalry, corresponding to the framework of the idea of paradigm developed by T. Kuhn (1996). It expresses an original approach and the identification of problems related to the functioning of particular business segments – markets, sectors and industries – and the methodology of research and the platform of cognition, as well as the evaluation of an unbiased, scientific approach to the world of economics and its sectoral subsystems, and an economy and business in their numerous structural dimensions. Such a theoretical and methodological



approach can be referred to M. Heidegger’s statement – *the relations between science and thinking become authentic only if we become aware of a huge gap between them*. The understanding of this gap, or, in other words, the complexity of the market, economy, business and the mechanisms of market rivalry is the major characteristic and essence of Porter’s concept, which – in economic sciences and business practice – has shaped the global understanding of competition mechanisms and forces (Porter, 1980; 1986; 2008; 2011; see also Magretta, 2011).

The basic elements and mechanisms of competition are linked in economic theory to various types of markets and sets of tools used by companies in particular industries. These elements, in a general sense, determine supply-demand relationships, entry barriers as well as state policies and doctrines, including the openness of national economies and the forms of their incorporation into international and global markets (Gorynia 2010). The presented considerations are based on the assumption that any type of a market in a theoretical and cognitive approach – an oligopoly or monopoly market along with the concept of perfect markets – justifies the adoption of different competitive strategies in particular industries (Samuelson, Marks, 2014, Chapter 7–9; Samuelson, Nordhaus, 2010, Chapter 8–9; Krugman, Wells, 2018, Chapter 13–16).

In a classical approach Porter proposes the extension of the perspective of „thinking about competition”. It is expressed in Porter’s 5 Forces, based on solid theoretical foundations and methodological assumptions – an analysis of market and economic sectors, formulating strategic premises, and companies’ long-term competition-related decisions (Fig. 1).

An industry’s business breakdown structure leads to companies’ various market activities and behaviors referred to as „competitive strategies”.

These strategies focus on two general, but also major issues: 1) the ways in which a company participates in competitive processes, and 2) the selection of specific tools for dealing with competitors. The first issue involves designing and identifying a company’s place in a market segment (matrix BCG, GE, Mc Kinsey et. al). It results in a decision to enter into or avoid direct market competition. The methods for avoiding competition include various forms of vertical and horizontal integration in marketing channels and diversified forms of cooperation such as joint ventures in overseas markets, mergers and strategic alliances, joint participation in R&D projects, coepitition, cooperation projects etc. Competition intensity in contemporary markets can encourage businesses to engage in the forms of cooperation which pose a threat to the efficient functioning of markets and their allocation,

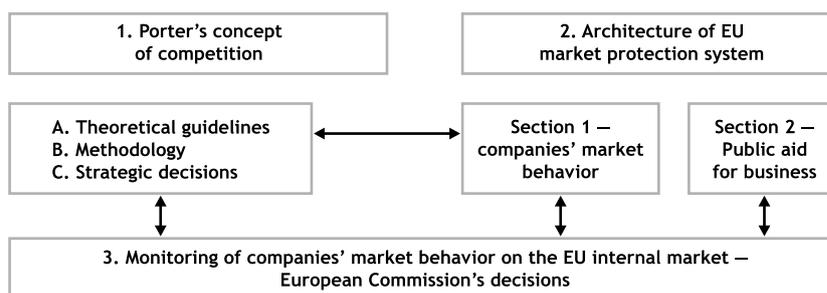


Figure 1. Structure of the paper
Source: author’s research

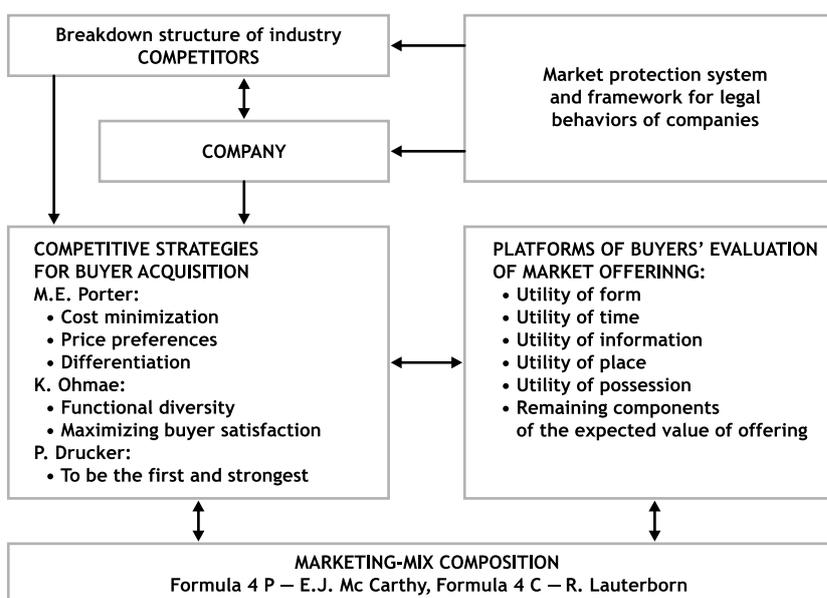


Figure 2. The construction and conditions of a company’s competitive strategy
Source: own study based on M.E. Porter and other researchers concepts

effectiveness and regulatory functions. They are represented by such forms of „false competition” as cartels, price fixing, and – under specific circumstances – mergers and acquisitions. Such forms of cooperation are the foundations of the EU internal market protection policies, which are discussed in the second part of this paper. Also, cooperation between companies relates to two significant elements of Porter’s model – the power of suppliers and the power of buyers.

Porter’s model describes three strategies that have a major impact on competitors in an industry: 1) minimizing unit costs and achieving cost leadership, 2) differentiation of offerings, and 3) focus (Fig. 2).

The cost leadership strategy assumes competing for customers, based on attractive price levels in a given segment while maintaining specific quality standards. It manifests itself in the efforts aimed to minimize production and sales unit costs, and, consequently, to achieve economies of scale. Therefore, it can be referred to as a price preference strategy. This strategy requires implementing proactive investment and innovation policies, the use of new technologies, large sales (international) markets, ultimately leading to standardized offerings and relevant marketing mix compositions.

The differentiation strategy for dealing with competitors is related to various stages of market development. It is reflected in developing new variants of the same product (a product development strategy in Ansoff’s matrix), differentiated equipment and unique features (a distinct extension of products in Levitt’s concept, creation of new products, and a different positioning of products on consumers’ perception map. This type of strategy – based on qualitative preferences – is linked to another significant element of a company’s market presence strategy – a strategy for serving buyers. A concentration strategy, on the other hand, indicates a company’s focus on a selected market segment – a segment, micro segment, or a market niche – and distinct product-market specialization. Under specific circumstances and maintaining discipline in implementing the adopted business model, it is possible to gain a competitive advantage in a clearly identified sector, and to abuse this advantage. The latter case is a significant component of the EU market protection policy, and is discussed in the further part of the paper.

The strategies presented by Porter are not the only ways of describing companies’ competitive market behavior. Other concepts presented in literatures constitute a basis for developing creative and effective corporate competitive strategies. For example, Drucker claims that any competitive strategy is founded on the idea of being the first and strongest in the industry, which implies gaining and benefiting from the dominant position in the industry (Drucker 2007; 2014). K. Ohmae (1982), on the other hand, refers to functional diversity strategies, including focus on key success factors, aggressive initiative and maximizing customer satisfaction. Maximizing customer satisfaction clearly refers to the core of a competitive strategy: the set of values – usefulness for buyers. This idea is commonly referred to the two dimensions: customers’ perceived use value and perceived price (Faulkner, Bowman, 1985; Kotler, Keller, 2018). This approach to a company’s competitiveness is reflected in the concepts of experience economy, values marketing, and other contemporary

theoretical concepts. It should be noted that the category of value in a broader sense (a modification of the CSR strategy proposed by Porter and Kramer) integrates social and economic values: profit for a company, which is also a source of creating customer value (Porter, Kramer, 2006).

The strategies proposed by Porter demonstrate a fundamental platform of firms’ competition in all industries. They can be implemented in different ways and have their specific character. The limitations of this paper do not allow for an in-depth analysis of this issue. Let me just stress that competition within an industry is the basic dimension of competitive analysis, but not the only one. The intensity of market competition is affected by other factors and conditions, including those which Porter refers to as (leading) forces of competition. They include substitute products, new entrants, as well as the power of suppliers and customers. The combination of these forces constitutes competition mechanisms in an industry, market behavior patterns and the rules of the game on the market, determining the intensity and forms of rivalry in their domestic, international or global dimensions. These factors, affecting the forces of competition, have a general and fundamental nature. They refer to various market configurations and industries, spatial and industry breakdown structures, and they become increasingly significant in the conditions of internationalization and globalization – the conditions of open and international economies and „global strategy” (among others Krugman et al., 2015; Yip, 2002). All the „forces”, conditions and determinants are dynamic in character, being affected by the turbulent macro – and microeconomic environment and the conditions in which companies, industries and national economies function in the context of contemporary world megatrends. The most important factors are explained by means of technological revolution paradigms, business digitalization, and the development of a knowledge-based economy and information society. The impact of these factors eliminates distinct borders between industries, they are open to new solutions and value chain configurations, and they lead to new forms of rivalry as well as new structures of key competences and competitive advantage.

The analyzed issues lead to developing specific competitive strategies as well as legal solutions – creating legal systems. Law and, more precisely, state economic policies, aim to protect markets against inappropriate behaviors and corporate competitive strategies. This issue is a significant area of economic theory just to mention a discourse between etatism and liberalism, debates over the scope of state intervention in an economy, or disputes between the Harvard and Chicago schools over antitrust regulation.

The architecture of the EU market protection system

The market and competition protection policy are the pillars of the EU’s internal market regulation. Its shape and character result from the autotelic value attributed to competing entities, as well as the instrumental role of competition in achieving those social and economic targets which gave rise to integration processes in Western Europe and the establishment of the European Union. The two abovementioned



factors refer to the global dimension of the contemporary economy. The concept of protecting the internal market has never been driven by the efforts aimed to create its atomistic and polipolistic structure. Policies in this area, since the establishment of the European Economic Community in 1957, have been designed to benefit from an effectively functioning market. For the above reasons, the regulation of the single market was based on the concept of undistorted competition, which was reflected in relevant legislation. The Lisbon Treaty on the Functioning of the European Union (TEU and TFEU, 13.12.2007) provides that the internal market [...] comprises a system which ensures undistorted competition (TEU, art. 1; TFEU). The Union's activities seek to ensure a high level of competitiveness, the cohesion of economic performance, and the creation of a system that protects the undistorted competition of the internal market (Consolidated versions of the Treaty, 2012; Cini, Pérez-Solórzano Borrágán, 2016; McCormick, 2015). Undistorted competition is regarded in specific regulations as „effective competition”. These are the very tasks (the achievement of market protection and the use of relevant mechanisms) that should be performed by market policies. It is rightly assumed that only such factors as intense competition and undistorted market mechanisms can ensure the achievement of the EU treaty objectives. The market and protection policy are designed to meet both internal and external needs of the EU economy. In the latter case it should ensure the competitiveness of EU companies in international and global markets, strengthening the EU's position in the Triad. The EU's economy is inseparably linked to the world economy, adhering to the principles of open market and free competition. The major goals of the market protection policy related to competition protection within the EU single market refer to ensuring fair competition among market participants, improving a legal framework for companies' competition in Europe, offering assistance to SMEs, and facilitating European companies' access to global markets (Faull, Nikpay, 2007; Wiktor, 2003).

The adopted objectives are reflected in the community's specific market policy solutions including competition protection policies:

- the state's role in creating market mechanisms and their impact on the forms of market competition, and
- counteracting the falsification of the market competition mechanism through various corporate strategies and market activities.

These areas reflect the major dilemma faced by states – or, in a broader sense – by the EU integration bodies, related to their role in the contemporary economy with regard to state-market relations and the scope of state intervention in an economy. They also point to the fact that the distortion of market mechanisms results not only from the use of companies' diversified market and competitive instruments but also from state and public sector activities, political interests and formal and legal regulations and their negative impact on money, markets and economies. Therefore, ensuring undistorted and effective market and competition protection requires the participation of both business and public sectors.

The competition protection policy is based on the principles approved by the entire community (art. 3 point 1,

TFEU). It comprises all 28 member states (or 27 after Brexit), all industries and related breakdown structures at national and regional levels.

The European law is supreme over national laws, and member states are obligated to incorporate competition regulation into their legal systems. It implies that a member state's legal system must not violate the European market protection regulation. Specific national solutions must adhere to the letter and spirit of European laws (McGowan, 2010).

The fundamental formal and legal norms of the internal market protection system are based on direct regulation. They are set out in the treaties which determine the EU's overall policies with regard to competition: market mechanisms, counteracting possible distortions and threats, and promoting the development of single market competitive structures. The provisions of the Treaty (TFEU) stress the significance of the EU market and competition protection policy (articles 3, 26–27, 101–108, and 179–180).

A special role plays Title VII: Common rules on competition, taxation and approximation of laws. It sets out general principles and clauses counteracting market competition limitations. Chapter 1 refers to competition rules, and comprises rules applied to companies (section 1) and state aid (section 2).

Both sections refer to the concept of single market competition protection, setting out relevant principles and the use of specific tools. They refer to corporate activities that can breach – theoretically or in practice, through distortion or falsification – the fundamental principle of the common market, i.e. the competitiveness of breakdown structures, as well as the state's role in an economy, and, in particular, the scope of public assistance offered to the business sector. The community policy recommends the use of specific tools in both areas of the EU competition policies (Lyons, 2009).

Both groups are subject to a synthetic reflection which identifies the objectives of market policies – the mechanism of protecting the European market against the falsification and distortion of its mechanisms. It is a significant element of corporate marketing management, the development of a competition strategy, and gaining a competitive edge in a given industry.

The following factors play a significant role in the first group: 1) ban on cartel contracts, 2) ban on the abuse of competitive position, and 3) oversight of corporate mergers and acquisitions.

This regulation results from several factors. Firstly, it aims to ensure the freedom of trading, and, consequently, the freedom of the various aspects of corporate functioning. Secondly, it provides legal barriers to falsified competition and restrictions on the freedom of contractual deals in their horizontal as well as vertical dimensions. It is obvious that some contracts can – hiding their real intentions – distort market competition mechanisms. Therefore, the category of „agreement” in the European market protection policy is interpreted in a broad sense as any statement of the declaration of intent of at least two independent companies, also expressed as tacit acceptance and without a legal form. Such practices are forbidden by antitrust regulations as well as the instruments and tools of group 1.

The essence of the competition protection policy is not a ban on agreements between companies as such but on agreements which intentionally aim to reduce competition. A catalog of such diversified and possible activities is presented in the Treaty (art. 101, p. 1, TFEU). They include a ban on production control, product technological development and manufacture, agreements on sales market divisions, price fixing, or exclusive buying rights. It should be noted that the European Commission, through the Directorate-General for Competition, conducts the continuous monitoring of the EU market aimed to expose, punish and prevent illegal corporate activities.

The European market policy and its concept of market and competition protection is based on the prohibition to benefit from and abuse a company's dominant position (*Information Exchange ...*, 2011).

The EU competition law does not prohibit companies to strengthen their market position. It is an obvious assumption which respects companies' efforts aimed to increase effectiveness and expand based on rational strategies and marketing programs. It is an important issue – a company's main objective and its strategy are reflected in its efforts to dominate in a given market segment. An increased market share is a significant measure of a company's marketing position and the achievement of its objectives. This measure is a basis for assessing a company's performance and setting directions for its future expansion and operations in a turbulent business environment. A dominant position itself or efforts aimed to achieve it do not pose a threat to the effective functioning of market mechanisms. A threat can be posed in the case of abusing the achieved position, and, consequently, falsifying competition in the markets. Two issues seem to play a significant role in analyzing the Euro market's protection: (1) an appropriate identification of a company's market, and (2) defining the idea of a dominant position. These are key methodological issues. They are the subject of extensive scientific research and constitute, simultaneously, the core of the functioning of the European Commission and its Directorate-General for Competition (http://ec.europa.eu/competition/indekx_en.html).

The third instrument, which refers to companies' legal market behavior (supervision of merger processes) aims to assess, on an a priori and preventive basis, effects of the economic and organizational concentration (mergers and acquisitions) of companies at a community level. The reason for undertaking such activities is an increasing intensity of market competition, the need for meeting the challenges of the contemporary world economy (e.g. with regard to R&D activities and product development), and efforts aimed to gain a competitive edge on the market. The mergers of companies which occupy large market segments can distort market competition mechanisms. Therefore, the European market protection policy assumes a need for administrative intervention in the process of companies' organizational and economic concentration through giving (or not) its approval to corporate mergers (TFEU, art. 101). The detailed regulations in this area do not imply the ban on corporate concentration but preventive oversight and assessment of its impact on the single market and competition mechanisms.

The second group of the Euro market protection instruments comprises tools and principles related to state aid (public sector) provided for an economy, industries and groups of companies. This is an important area from the perspective of the functioning of markets and competition mechanisms. The state, through its economic policy, can be a destructive market force, distorting the market mechanism of resource allocation and competition. It can petrify ineffective economic structures (e.g. the state sector or state monopolies), weaken the inclination to perform effectively and to seek innovativeness and technological advancement in state-controlled sectors.

The forms and scope of state aid are regulated by articles 107–109 of TFEU. The Union's concept of market and competition protection with regard to state aid is based on the assumption that „Save as otherwise provided in the Treaties, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favoring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the internal market.” (TFEU, art. 107, p. 1). The above statement refers to all aspects of state aid.

State aid in the concept of European regulation and market protection is defined as aid provided through public funds, favoring a beneficiary, regardless of its form, groups of companies and industries, it is selective in character, distorts, or threatens to distort, competition in the area of the single market, and distorts trade between member states. State aid, as understood by competition regulations, must refer to the entire community, hindering trade between member states. It is of no significance if a given product offered by a possible beneficiary is exported or if it competes with a product on the domestic market. Such circumstances are understood as illegally provided aid which breaches competition regulations in the single market. State aid of limited scope, provided in local markets, and in the case of natural disasters etc. is not regarded as a violation of community competition regulations.

The monitoring of corporate competitive strategies on the EU internal market

This part of the paper presents a set of competitive strategy and legal framework elements related to corporate competitive behaviors on the EU internal market. It is a broad and multi-layered issue, combining specific competitive strategies with their formal and legal aspects. Due to the limitations of this paper, the presented analysis focuses on specific cases from the perspective of four areas of regulation.

1. The prohibition of cartel agreements

Cartels can assume various forms including price fixing, setting production levels, market divisions, or designating areas of influence with a view to avoiding direct competition in an industry. Statistics show that in 1990–2019 the European Commission imposed 136 fines on companies, amounting to 26.429bn euros. Attention should be given to the diversified scope of cartel agreements in this period. In 1990–1999, the Commission exposed 20 cases of cartels, imposing the fines

of 615.2m euros, and in 2000–2019 – 116 cases (25.814bn euros). The average annual fine (fines imposed) in the first period of the analysis amounted to 61.5m euros, while in the second period – 1.358bn euros (a proportion of 1 to 22). This considerable increase in the number and scope of cartel agreements can result from various market factors related to global competition and its increasing intensity on the European market. These factors determine the strategic competitive advantage also in the forms of cooperation that breach market and competition regulations. Available statistics demonstrate the existing problem in particular industries and companies. For example, the largest number of cartel agreements was recorded in the following industries: Truck (fines imposed – 3.807bn euros), TV and computer monitor tubes (1.409bn euros), Euro interest rates derivatives (1.310bn euros), Car-glass (1.185bn euros), and Automotive bearings (953m euros). Fines imposed by companies: Daimler (1.008bn euros, 2016), Scania (880m euros, 2017), DAF (752m euros, 2016), Saint Gobain (715m euros, 2008), Philips (705m euros, of which 391 940 000 jointly and severally with LG Electronics, 2012) (<http://ec.europa.eu/competition/cartels/statistics/statistics.pdf>).

2. Abuse of competitive position

This is the second significant aspect of protecting the European market against inappropriate forms of building competitive advantage. The case of Google is a spectacular case of such strategies. In 2017, according to the European Commission, Google breached competition regulations through the abuse of its competitive position resulting from its own search engine. The Commission claimed that Google favored its price search engine, which resulted in a considerable increase in the costs of visits as compared with other available products. The imposed fine amounted to 2.420bn euros. Google was forced to abandon abusing its competitive position in accordance with European market protection regulations, and to treat other search engines as enjoying equal rights (http://europa.eu/rapid/press-release_IP-17-1784_en.htm). In the course of the investigation Google was also charged with the abuse of its competitive position on the market of mobile applications (http://europa.eu/rapid/press-release_IP-18-4581_en.htm), and Google Search (AdSense), appearing on other web pages (http://europa.eu/rapid/press-release_IP-19-1770_en.htm).

3. Oversight of mergers and acquisitions

The preventive oversight of corporate mergers and acquisitions refers to the fundamental EU market protection principles. It aims to identify the scope of corporate concentration which does not distort competition. The specific principles including the financial scope of mergers and acquisitions, the geographical range of market activities, and changes in the market position are set out in relevant regulations. In this context – apart from the oversight of mergers and acquisitions and their market implications for sectoral companies and consumers – a significant role is played by disclosure obligations. EU laws require companies to notify the Commission of any planned acquisitions, reasons for such undertakings, their valuations and consequences. The first such case was reported in 2014. Facebook notified the European Commission of its intention to acquire WhatsApp (http://europa.eu/rapid/press-release_IP-17-1369_en.htm).

The company also informed the Commission that it was not able to determine a reliable and automated system for matching FB and WhatsApp user accounts. In 2017 it turned out that the matching of accounts was technically feasible at the time of announcing the acquisition. As a result, the Commission imposed a fine on FB of 110m euros for breaching the EU disclosure obligations. Another case is a fine of 52m euros imposed on General Electric for conveying misleading information in the process of acquiring LM Wind (http://europa.eu/rapid/press-release_IP-19-2049_en.htm).

Such decisions are important messages communicated to companies engaged in mergers and acquisitions in the context of developing new competitive strategies on the EU internal market.

4. Principles for public aid provided for business sector

This instrument aims to protect the European market against the state's unfair treatment of economic entities, as well as to create a transparent system for providing public aid (<https://webgate.ec.europa.eu/competition/transparency/public?lang=en>).

The assumptions, reasons for and consequences on the EU market policies in this area are discussed in the second part of this paper. An interesting case is Luxembourg's decision made in 2017 with regard to Amazon. The government's interpretation of tax law enabled Amazon to transfer a huge portion of its profit from a member of the Amazon capital group (taxable in Luxembourg – Amazon EU) to a company which was not subject to taxation (Amazon Europe Holding Technologies), which was not economically justified. The European Commission regarded this form of aid as a case of breaching the EU market protection regulations, and required that Amazon's tax benefits, estimated at 250m euros, be returned to the state budget (<https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32018D0859&from=EN>). A similar case of illegal aid offered to small companies (diversified trade tax rates) was recorded in proposed legislation in Poland (2016) and Hungary (2015). As a result of an a priori analysis conducted by the Commission, the proposed solutions were rejected. According to the European Commission, offering tax concessions to small trading companies violated market protection regulations through granting different formal and tax-related conditions to companies representing a different potential in terms of their staff and sales volumes.

The monitoring of corporate activities and competitive strategies is vested in the hands of the Directorate for Competition in the European Commission. This body is responsible for the continuous analysis of markets and their segments from the perspective of compliance with the norms and principles set out in the Treaty (TFEU). A significant role in the monitoring process is played by the Directorate's annual reports submitted by the Commission to the European parliament.

The 2017 report comprised the following issues (European Commission 2017): the Commission's efforts aimed to effectively enforce European competition regulations; an increased role of domestic bodies for competition; the use of the entire potential of digital resources and e-trade; elimination of price restrictions and geographical barriers; oversight of connectivity and communication of reliable information; promotion

of fair competition in concentrated markets for the benefit of citizens and companies, including the enforcement of competition protection regulations in pharmaceuticals, agriculture and the chemical industry, networking sectors, and stimulating economic growth through competition protection, and the enforcement of anti-cartel regulation aimed to increase the EU competitiveness, promotion of fair competition in concentrated markets for the benefit of citizens and companies, and combined efforts aimed to develop a competition culture model.

Conclusions

The European Union's internal market protection system comprises legal regulations concerning companies' acceptable market behaviors and the scope of public aid provided for the sector of enterprises. It sets out the principles for developing competitive strategies in all industries. It is a significant component and tool for an „analysis of industries and competitors” as proposed by Michael E. Porter. The EU competition protection system has clear objectives and architecture. It comprises a set of tools related to corporate functioning strategies in particular industries and the acceptable scope of public aid for businesses. Corporate strategies refer to Porter's model and the forces which affect competition intensity in an industry (gaining and benefiting from a dominant market position), as well as other competition forces – new entrants, agreements on product technological development (the threat of substitutes), and the power of buyers and suppliers. The EU market and competition protection policy creates a legal framework for gaining and benefiting from competitive advantage resulting from the basic elements of value chains and utilities for end users: higher quality, lower prices and product innovativeness. The EU competition protection system reconciles companies' natural interests with the interests of society and the efforts aimed to develop the competitive structures of the internal market and the resulting economic and social benefits. It plays a significant role in developing corporate competitive strategies which comply with the clear and transparent rules of the game on the EU internal market.

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References

- [1] Cini M., Pérez-Solórzano Borrágán N. (2016), *European Union. Politics*, Oxford University Press.
- [2] *Consolidated versions of the Treaty on European Union and the Treaty on the Functioning of the European Union* (2012), „Official Journal of European Union”, 2012/C 26/01, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:12012E/TXT>, access date: 16.05.2019.
- [3] Drucker P.F. (2014), *Innovation and Entrepreneurship, Practice and Principles*, Routledge, London.
- [4] Drucker P.F. (2007), *Management Challenges for the 21st Century*, Taylor & Francis.
- [5] European Commission (2017), *Report on Competition Policy 2017*.
- [6] Faulkner D., Bowman C. (1985), *The Essence of Competitive Strategy*, Prentice Hall International (UK).
- [7] Faull J., Nikpay A. (2007), *The EC Law of Competition*, Oxford.
- [8] Gorynia M. (2010), *Teoretyczne aspekty konkurencyjności*, [w:] M. Gorynia, E. Łązniewska (red.), *Kompendium wiedzy o konkurencyjności*, Wyd. Naukowe PWN, Warszawa [Theoretical Aspects of Competitiveness, [in:] M. Gorynia, E. Łązniewska (eds.), *Compendium of Knowledge About Competitiveness*, PWN, Warsaw], s. 48–65.
- [9] http://ec.europa.eu/competition/publications/annual_report/2017/part1_en.pdf, access date: 10.05.2019.
- [10] http://ec.europa.eu/competition/index_en.html, access date: 10.05.2019.
- [11] http://europa.eu/rapid/press-release_IP-17-1784_en.htm, access date: 10.05.2019.
- [12] <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32018D0859&from=EN>, access date: 16.05.2019. luksemburg.
- [13] <http://ec.europa.eu/competition/cartels/statistics/statistics.pdf>, access date: 14.05.2019.
- [14] http://europa.eu/rapid/press-release_IP-18-4581_en.htm, access date: 14.05.2019.
- [15] http://europa.eu/rapid/press-release_IP-19-1770_en.htm, access date: 14.05.2019.
- [16] http://europa.eu/rapid/press-release_IP-17-1369_en.htm, access date: 15.05.2019.
- [17] http://europa.eu/rapid/press-release_IP-19-2049_en.htm, access date: 15.05.2019.
- [18] <https://webgate.ec.europa.eu/competition/transparency/public?lang=en>, access date: 14.05.2019.
- [19] *Information Exchange between Competitors under Competition Law* (2011), Background Paper, OECD, Paris.
- [20] Kotler P., Keller K.L. (2018), *Marketing Management*, Pearson Education.
- [21] Krugman P., Wells R. (2018), *Microeconomics*, Macmillan.
- [22] Krugman P.R., Obstfeld M., Melitz M. (2015), *International Economics: Theory and Policy*, Pearson.
- [23] Kuhn T. (1996), *The Structure of Scientific Revolutions*, University of Chicago Press, Chicago.
- [24] Lyons B. (2009), *Cases in European Competition Policy: The Economic Analysis*, Cambridge.
- [25] Magretta J. (2011), *Understanding Michael Porter. The Essential Guide to Competition and Strategy*, Harvard Business Review Press.
- [26] McCormick J. (2015), *European Union. Politics*, Palgrave.
- [27] McGowan L. (2010), *The Antitrust Revolution in Europe: Exploring the European Commission's Cartel Policy*, Edward Elgar Publishing.
- [28] Ohmae K. (1982), *The Mind of the Strategist*, McGraw-Hill, New York.
- [29] Porter M.E. (ed.), (1986), *Competition in Global Industries*, Harvard Business School Press, Boston.
- [30] Porter M.E. (1980), *Competitive Strategy. Techniques for Analyzing Industries and Competitors*, The Free Press. A Division of MacMillan, Inc.



- [31] Porter M.E. (2008), *On Competition*, Harvard Business School Publishing, Boston.
- [32] Porter M.E., Kramer M.R. (2006), *Strategy & Society: The Link Between Competitive Advantage and Corporate Social Responsibility*, „Harvard Business Review”, Vol. 84, No. 12, pp. 78–92.
- [33] Porter M.E. (2011), *What is Strategy? HBR's 10 Must Reads on Strategy*, Harvard Business School Publishing.
- [34] Samuelson P.A., Nordhaus W.D. (2010), *Economics*, The McGraw-Hill, New York.
- [35] Samuelson W.F., Marks S.G. (2014), *Managerial Economics*, John Wiley&Sons, New York.
- [36] Wiktor J.W. (2003), *Rynek Unii Europejskiej. Koncepcja i zasady funkcjonowania*, Wydawnictwo Akademii Ekonomicznej, Kraków [*The European Union Market. Concept and Principles of Functioning*, Publisher of the Cracow University of Economics, Cracow].
- [37] Yip G.S. (2002), *Total Global Strategy II*, Prentice Hall.

Koncepcja konkurencji M.E. Portera a system ochrony rynku wewnętrznego Unii Europejskiej

Streszczenie

Celem artykułu jest refleksja nad systemem ochrony konkurencji i polityką rynkową Unii Europejskiej w tej perspektywie, jaką tworzy koncepcja strategii konkurencji

M.E. Portera. Stanowi zarazem element pewnej konkretyzacji modelu pięciu sił Portera o elementy, które nawiązują do sfery regulacji prawnej konkurencyjnych zachowań rynkowych przedsiębiorstw na rynku wewnętrznym UE. Rozważania są ujęte w trzy punkty. W pierwszym podkreślono zarys koncepcji i podstawowe elementy strategii konkurencji M.E. Portera. Analiza nie jest krytycznym studium na temat konkurencyjności, lecz stanowi selektywne spojrzenie na formy rywalizacji i zarazem możliwej współpracy przedsiębiorstw, które znajdują swój wyraz w strategiach konkurowania. W drugim punkcie zaprezentowano elementy architektury systemu ochrony konkurencji na rynku europejskim. Uwagę skoncentrowano na tych elementach, które w istotny sposób wypełniają teoretyczne ustalenia Porterowskiej koncepcji konkurencji. Odnoszą się one do legalnych ram zachowań rynkowych przedsiębiorstw i sił wewnątrz sektora, a więc elementów bezpośrednio determinujących ich zachowania rynkowe. Trzecim punktem jest egzemplifikacja problemu unijnej polityki ochrony rynku i konkurencji, ukazująca wybrane formy i strategie naruszenia systemu prawa UE i ich konsekwencje dla przedsiębiorstw ze strony Komisji Europejskiej.

Słowa kluczowe

strategia konkurencji Portera, ochrona rynku UE, monitoring strategii rynkowych przedsiębiorstw na rynku UE