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Getting The Deal Through Series: Dominance 2009 (**Written by: Raluca Vasilache and Anca Jurcovan**)
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The abusive behaviour of dominant firms is prohibited by article 6 of the Romanian Competition Law No. 21/1996 (RCL) and, since 1 January 2007, by article 82 of the EC Treaty. Article 6 expressly forbids the abusive use of a dominant position held by one or more undertakings on the Romanian market or on a substantial part of it, by resorting to anti-competitive practices that have as their object or may have as their effect the distortion of economic activities or the prejudice of consumers. The attempts of a non-dominant player to gain market shares through an aggressive M&A strategy would normally be subject to merger control and censured, if necessary, within this context. Under RCL, article 12, the Romanian Competition Council (RCC) may prohibit the economic concentrations that lead or might lead to a significant restriction of the competition on the Romanian market or on part of it, by creating or strengthening a dominant position. The authority has however made limited use of this provision, preferring to impose remedies on the merging parties. The Romanian legislature states as primary objectives of the antitrust law the protection and growth of competition on the market and the support of consumers' welfare. The RCC's practice showed an increased focus on consumers. In one recent case, couple of cable TV operators were found abusive for non-complying with the contracts concluded with their subscribers. Sustaining the market position of small and medium-sized businesses, although not specifically reiterated under article 6 of the RCL, could be considered as an objective to be protected within the context of control on abuse of dominant position. **To read the entire article, please download the .pdf attached.**