

QUALITATIVE MARKETING RESEARCH REGARDING THE IMPACT OF THE ROMANIAN LEGAL FRAMEWORK ON THE ACTIVITY OF LEASING COMPANIES

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ABSTRACT: In the context of a diversified financial market, companies have identified several opportunities, including the leasing, which offers the possibility of using goods and equipments, from the most modern ones, without charging the financial management with the weight of a purchase that an accelerated scientific and technical progress would turn it into a useless task. The leasing technique hasn't left indifferent the judicial and monetary authorities, the parties involved losing quickly the freedom of organizing the relations on their own. This situation was a result of the fact that, showing interest for various sectors of national economy, leasing became the subject of distinctive regulations. In this context, during October-November 2011, there was designed a qualitative marketing research, which had as the main objective the analysis of the attitudes and opinions of the managers of leasing companies from Brașov City, regarding the impact of the relevant legislation on their activity. The research results highlighted, on one hand, the problems they had to face because of the numerous specific inaccuracies in the Romanian legal framework and, on the other hand, the changes they could bring to the legislation in force. These results provided valuable information to the management of the leasing companies, also representing a reference point in designing a future quantitative marketing research, which is of descriptive nature.

Key words: qualitative marketing research, leasing, legislation.

JEL Codes: M31, G21, G28, K23.

Introduction

The alert pace of the trade, of the demand and supply and also of the technical progress, which involves immediate decisions and investments that sometimes exceed the self-financing possibilities of the economic agents and also the lending capabilities they have at their disposal, has determined the appearance of the leasing operations. Therefore, the simple operation involving only two persons was extended to triangular operations, unifying the technique of renting with the one of lending.

In this context, the financial and banking institutions grouped themselves in order to create new companies with more autonomy in relation to the production companies. Dissociating the use from the other attributes of ownership and perceiving it as an important source of income, their social object was set taking in consideration the performing of a more complex and varied services. During time, the activity of these companies and the agreements concluded by them were strictly regulated, for example:

- the abidance to a special status as banks or financial institutions;
- the observance of certain legal, accounting and taxing regulations;

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- the control of some activities.

In consequence, also the leasing operations have imposed a legal approach, implying "a transaction where one party, called lessor or financier, send to another party, called user, for a certain period of time, the right of using an asset, for a specific sum of money, called leasing rate" (Nițulescu, 2008). The regulation of leasing also aimed the rights and the obligations arising from the contract terms that apply at the end of the agreed use period, when the financier has "to respect the user's option right of acquiring the ownership of the property at a residual price, of extending the leasing contract or of terminating the contractual relationship" (Clocotici, 2000).

In Romania, the legal framework regarding the leasing companies and the carrying on of leasing operations is provided by (Portal Leasing, 2010):

- Ordinance no. 51/1997 regarding leasing operations and leasing companies, which was later amended and supplemented by several acts.
- Law no. 90/1998 for the approval of Government Ordinance no. 51/1997 regarding leasing operations and leasing companies.
- Law no. 99/1999 regarding certain measures for the acceleration of the economic reform.
- Law no. 571/2003 – the Tax Code published in the Official Gazette no. 927/23.12.2003, as amended and supplemented.
- Ordinance no. 92/2003 – the Fiscal Procedure Code published in the Official Gazette no. 941/23.12.2003, as amended and supplemented.
- Law no. 533/2004 for amending and supplementing the Government Ordinance no. 51/1997.
- Ordinance no. 28/2006 regarding some of the financial – tax measures.
- Law no. 266/2006 regarding the approval of Government Ordinance no. 28/2006 published in the Official Gazette no. 580/05.07.2006.
- Law no. 287/2006 for amending and supplementing the Government Ordinance no. 51/1997.
- Law no. 343/2006 for amending and supplementing the Law no. 571/2003, published in the Official Gazette no. 662/ 01.08.2006.
- Law no. 227/2007 regarding the approval of Government Ordinance no. 99/2006 regarding the credit institutions and the adequacy of the capital, published in the Official Gazette no. 480/18.07.2007.
- Law no. 241/2007 for repealing the regulations that stipulate the exemption or the exoneration from the payment of custom duties on certain goods.
- Order no. 39/2008 regarding the prohibition of using certain payment instruments such as checks, bills of exchange and promissory notes, in the old format, published in the Official Gazette, Part I no. 814/04.12.2008.
- Law no. 93/2009 regarding the non-banking financial institutions.
- Law no. 383/2009 for amending the 6th article, 1st paragraph, letter c). of the Government Ordinance no. 51/1997.

However, the legal system presents a series of dysfunctions that affect to some extent the practice activity of the leasing companies. In order to synthesize these problems, during October – November 2011, there was made a qualitative marketing research at the level of leasing market of Brașov City.

Objectives and methodology

The choice of the marketing research as a method of studying the impact of the Romanian legal framework on the activity of the leasing companies was based on its quality of being "a formal activity through which, by means of concepts, methods and scientific investigation techniques, is carried out systematically, the specification, measurement, collection, analysis and

objective interpretation of marketing information destined to the management of the economic unit, for understanding the environment in which it operates, for identifying all the opportunities and for evaluating the alternative of marketing actions and their effects” (Balaure et al., 2000).

But taking in consideration the fact that the aim of this study was to analyze the attitudes and opinions of the managers of leasing companies from Braşov City regarding the impact of the relevant legislation on their activity, it has opted for the realization of a qualitative marketing research, which offered “answers to questions like «why?» and «how?», seeking to know the root causes of attitudes, motives, behaviors, preferences and opinions of the respondents and the subjective, emotional or unconscious elements, which lies behind them” (Lefter, 2004).

The qualitative marketing research was used for “exploration and diagnostic purposes, providing the information needed to build a structured questionnaire” (Gherman, 2007), which will serve as the base of designing a future quantitative marketing research.

From the multitude of the techniques of qualitative research method it was chosen the *in-depth semi-directive interview*. This involved the development of an interview guide that included the subjects subsequently approached in the interviews. It also imposed the realization of more interviews, the respondents being “good connoisseurs of the topics approached and the sample of subjects used reflecting the population characteristics” (Brătucu, 2006). Thus, the present study focused on eight managers of leasing companies from Braşov City. Five of the sampled companies were leasing companies – subsidiaries of banks, two of them were independent companies and one company was captive to a car dealer (Table 1).

Table no. 1.

The identification data of the interviewed managers

	Name of leasing company	Category	Oldness in the Romanian market
Manager 1	Leasing company no. 1	Leasing companies – subsidiaries of banks	10 years
Manager 2	Leasing company no. 2	Leasing companies – subsidiaries of banks	6 years
Manager 3	Leasing company no. 3	Leasing companies – subsidiaries of banks	5 years
Manager 4	Leasing company no. 4	Leasing companies – subsidiaries of banks	18 years
Manager 5	Leasing company no. 5	Independent company – large company	15 years
Manager 6	Leasing company no. 6	Independent company – small company	6 years
Manager 7	Leasing company no. 7	Leasing companies – subsidiaries of banks	9 years
Manager 8	Leasing company no. 8	Captive to a car dealer	7 years

* The name of the interviewed managers and leasing companies were not mentioned for confidentiality reasons.

Despite the limits imposed, the *in-depth semi-directive interview* remains a qualitative research method which is often used by the specialist. in the case of the present research there can be highlighted a series of disadvantages, such as:

- the relatively small number of interviews, situation traceable to the relatively high costs generated by this method of research;

- the short duration of the interviews (maximum 60 minutes), imposed by the lack of time of the managers of the leasing companies included in the sample;
- the frequent interruptions of the discussions, due to the interference of others, in the context in which the interviews were held at the headquarters of the leasing companies;
- the unrepresentative results of the qualitative research, at the level of the studied population, and therefore the impossibility of extrapolating the results to all managers of the leasing companies from Braşov City.

The purpose of this research was to identify and analyze the opinions of managers of the leasing companies regarding the legislation in the field of leasing.

Regarding to the objectives associated to the qualitative research, these have been established in order to allow a more detailed knowing of the interviewed managers' opinions about the subjects approached in the discussions.

In this respect, the *major objectives* considered were the following:

- the identification of the mode of functioning the three types of leasing legislation, taking in consideration the legislation in force;
- the analysis of the legal provisions applicable to leasing activities, in terms of the positive and negative aspects specific to them;
- the highlighting of the changes that leasing companies could bring to the legislation in force.

The in-depth semi-directive interviews were analyzed from two perspectives:

- *the vertical analysis*, by individual approaching of each interview, respectively of each manager's opinions, situation in which it was highlighted the attention given by them to the issues approached in the sub-themes of the in-depth semi-directive interview;
- *the horizontal analysis*, by synthesis of the approach of each theme and sub-theme discussed by all 8 managers.

Thus, the responses obtained from the interviewed managers have undergone a primary qualitative data processing technique called *content analysis*.

The research results

Taking in consideration the opinions expressed by the managers of the leasing companies regarding the legislation in the field of leasing, it was outlined an overview of the *functioning mode of the three types of Romanian leasing companies*.

Thus, it is considered that *the leasing companies – subsidiaries of banks* hold the supremacy, having the largest market share. This is mainly traceable to the lower refinancing costs they have in regard with other types of leasing companies, but also to the reputation they have on the market, being associated with banks. Another factor that contributed to this performance is the takeover of the customers from the bank channel, these companies basing on:

- the trust that exists between customers and bank;
- the convenience offered by the proximity of the leasing companies to the bank where the clients have their accounts;
- the fact that a series of the documents requested for drawing up the financing file is already in the possession of the bank.

At the same time, the great representation on the market, reflected in a large number of branches, has led to acquiring a dominant position on the market.

The *leasing companies captive to the producers* have, in general, a portfolio formed of the supplier or dealer group's customers to which they belong. This dependence on that brand or dealer means that any reduction or increase of the producer's sales equally affects the financier's market.

The *independent leasing companies* are generally small companies, characterized by being more flexible in providing the funding, having the possibility of assuming greater risks because their activity is not strictly regulated by the legislation in force. At the same time, this type of companies has greater independence in making their decisions. In return, they are more vulnerable to the market changes and the access to resources is more difficult because they have to refinance themselves from banks that give them the loans they need under more restrictive conditions and with bigger costs than in the case of the affiliated leasing companies.

Regarding the legal framework concerning leasing companies the managers' opinions are divided.

Half of the interviewed managers mentioned only the negative aspects of legislation in this field, such as:

- The impossibility of the leasing company to re-entry into possession of the good without a court order if the user doesn't respect his contractual obligations. This aspect is a disadvantage for both financier, being extended the period of recovering the asset, and the user, who has to pay, in addition to the legal executors fees, the difference between the amount he had to pay according to the contract and the market value of the asset after re-entering into possession. In other words, the user has to support the asset depreciation which increases with time. This is an important issue in the context in which the biggest challenge that the leasing industry has to face in the present, in addition to the sales reduction, refers to the slow pace in which leasing companies recover their assets from bad debtors.
- At the same time, the managers of the leasing companies – subsidiaries of banks have expressed their disapproval of the fact that the lending activity is regulated by the Central Bank only the leasing companies from the Special Register (large companies) and not also for those from the General Register (small companies).
- Another negative aspect mentioned by the interviewed managers concerns the obligation of leasing company to self – charge the VAT afferent to the unrecovered rates of the cancelled leasing contracts, in which the goods are to be recovered.
- Given the fact that more than half of the leasing contracts concern the road vehicles, the financier's obligation of paying the counter value of the penalties that represent sanctions for the contraventions made by users in circulation, after that the company having to bill the users at the value of the amount paid, is a regulation contested by most of the financiers.
- The activity of the leasing companies is weighted by the lack of correlation between the leasing legislation, the fiscal legislation and the regulations from the insurance field. An example is the inexistence of a direct relationship between the user and the insurance company, which means that in the case of a fraudulent action of the user, including the disappearance of the good, the insurance company has to turn against the financier who is not at fault for the fraud committed by the beneficiary. The solution would be to amend the insurance regulations in correlation with the legislation related to leasing. Thus, the leasing company can empower the user to represent her in the relationship with the insurer, transferring to him the rights and obligations of the insurance contract, with the condition that the sponsor still remain the beneficiary of the policy in order to be compensated in case of a total damage of the asset.
- The role of the participants in the leasing process is not defined either in terms of financier's responsibilities or the rights and the obligations of the user, insurer, dealer and service.
- The inconsistencies in the Ordinances issued by the Government and also in the Central Bank regulations, which impose to the leasing companies to reveal all the costs involved in financing the individuals, but not also the legal persons, allow to certain leasing companies to practice hidden commissions in the contracts with legal entities.
- In the interpretation of the National Authority for Consumer Protection (N.A.C.P.), the Ordinance no. 50/2010 limits the interest charged by the leasing and credit companies at

EURIBOR +7%; also the Ordinance assimilates the leasing to the credit and it stipulates that a client has the possibility of renouncing in two weeks after signing to the financing contract, without any penalty charge; in the situation in which the client renounces to the contract, in the case of a credit the mortgage placed on the property brought as a guarantee is retrieved, while in the case of leasing, the company keeps the good purchased from the supplier; to avoid such situations, the leasing companies have agreed to adopt the solution of paying the good to the supplier only after two weeks when the client hasn't the right anymore to cancel the agreement.

The other respondents although they appreciate that, in generally, the legal framework is favorable for conducting the business of leasing, they consider that there are problems in the legal system. The main examples in this respect are the different interpretations that can be made to the provisions of the Tax Code regarding the VAT deduction for the advance paid by the user. The interpretation of the National Tax Administration Agency (NTAA) is a different one, the institution considering the advance and the residual value as being the purchase price and therefore the leasing companies can not deduct the VAT on their payment. From the point of view of the leasing companies the purchase price is only the residual value, the VAT deduction for the payments being possible. The solution adopted by the leasing companies to avoid these different interpretations consisted in the establishment of a small advance and also of the minimum residual value allowed by the law, so that the value of the VAT for the advance and the residual value (which can not be deducted in accounting) to be insignificant.

Regarding the changes that leasing companies can bring to the legislation in force, there is an unanimous opinion that the only entity that can exercise some influence on the legislature is the Association of the Leasing Companies – Subsidiaries of Banks. The most significant accomplishment is amending the Tax Code, by inserting the provision according to which the leasing is the only form of acquisition that allowed the deductibility of VAT in the case of the vehicles purchased. However, not all the interventions of the Association of the Leasing Companies – Subsidiaries of Banks on the legislature ended successfully.

The managers consider that the Association's efforts should be intensified in order to adjust the dysfunctions of the legal system, so that it could be harmonized with European legislation.

Conclusions

The qualitative marketing research was intended to be a source of information regarding the problems that the leasing companies have to face because of the numerous specific inaccuracies in the Romanian legislation. Moreover, it reflects the attitudes and opinions of the managers of the leasing companies regarding the changes that they can bring to the legislation in force.

Taking in consideration the three types of Romanian leasing companies, the interviewed managers pointed out the fact that:

- the leasing companies – subsidiaries of banks hold the supremacy, having the largest market share;
- the leasing companies captive to the producers have, in general, a portfolio formed of the supplier or dealer group's customers to which they belong;
- the independent leasing companies are generally small companies, characterized by being more flexible in providing the funding, having the possibility of assuming greater risks because their activity is not strictly regulated by the legislation in force.

Overall, the legislation is favorable for conducting the business of leasing. But there is also a series of dysfunctions of the legislation in force, which can be adjusted or even eliminated by intensifying the activity of the Association of the Leasing Companies – Subsidiaries of Banks at the level of the competent authorities.

The results of this qualitative marketing research provide valuable information to the management of the leasing companies, also representing a reference point in deepening the central

theme of this study by designing a future quantitative marketing research, which is of descriptive nature.

References

1. Balaure V. et al., 2000. Marketing, Uranus Publishing House, Bucharest, pp. 118.
2. Brătuțu G., Brătuțu T.O., 2006. Qualitative methods used in the market research, The Management & Marketing Magazine, no. 1, Economic Publishing House, Bucharest, pp. 49.
3. Clocotici D., Gheorghiu Gh., 2000. The leasing operations, Lumina Lex Publishing House, Bucharest, pp. 15.
4. Gherman C., 2007. Qualitative researches regarding the market behaviors, Convorbiri Economice Magazine, 7th year, July 2007, Brașov, pp. 33.
5. Lefter C., 2004. Marketing Researches – Theory and Applications, Infomarket Publishing House, Brașov, pp. 36
6. Nițulescu G., 2008. The Romanian financial – banking guide, conducted under the auspices of the Romanian National Bank, 3rd edition, House of Guides Publishing House, pp. 111.
7. Portal Leasing IFN, 2010. The legislation in force regarding the leasing, available online at: <http://www.portalleasing.ro/legislatie.html>, accessed at 25th February 2012.