

Cancels & replaces the same document of 12 April 2018

Annual Report on Competition Policy Developments in Croatia

-- 2017 --

6-8 June 2018

This report is submitted by Croatia to the Competition Committee FOR INFORMATION at its forthcoming meeting to be held on 6-8 June 2018.

JT03430967

Table of contents

1. Changes to competition laws and policies, proposed or adopted	3
1.1. Summary of new legal provisions of competition law and related legislation	3
1.2. Other relevant measures, including new guidelines.....	4
1.3. Government proposals for new legislation	4
2. Enforcement of competition laws and policies.....	5
2.1. Action against anticompetitive practices, including agreements and abuses of dominant positions	5
2.2. Mergers and acquisitions	8
3. The role of competition authorities in the formulation and implementation of other policies, e.g. regulatory reform, trade and industrial policies	12
4. Resources of competition authorities1	14
4.1. Resources overall (current numbers and change over previous year):	14
4.2. Human resources (person-years) applied to:.....	16
4.3. Period covered by the above information: 1 January-31 December 2017	16
5. Summaries of or references to new reports and studies on competition policy issues	16

Figures

Figure 1. Number of employees in the Agency in the period of 1997 – 2017	14
Figure 2. Employees structure by the degree of professional qualification	15
Figure 3. Employee structure by age	15

1. Changes to competition laws and policies, proposed or adopted

1.1. Summary of new legal provisions of competition law and related legislation

1. The Croatian Competition Agency (the Agency; CCA), a legal person with public authority, was established by the Decision of the Croatian Parliament of 20 September 1995 and became operative in early 1997. The CCA independently and autonomously performs the activities within its scope and powers regulated under the Competition Act¹ (Official Gazette 79/09) and the Act on the Amendments to the Competition Act (Official Gazette 80/13). The CCA is accountable for the delivery of its objectives to the Croatian Parliament. During 2017, there were several changes in the existing legislative framework.

2. The Damages Act for the infringement of competition law was adopted and started being implemented in July 2017. The act transposes the Directive 2014/104/EU of the European Parliament and of the Council of 26 November 2014 on certain rules governing actions for damages under national law for infringements of the competition law provisions of the Member States and of the European Union into the Croatian national law. According to the Directive and new Act the actions for damages may be filed by any natural or legal person that has suffered harm on the account of the infringement of competition rules but also by any citizen – consumer or competitor in the market in which competition has been distorted, or a legal person that believes it has been paying a higher price of goods or services or works due to the infringement of competition rules. The compensation for damages will be decided in first instance by the Croatian commercial courts that generally rule in the compensation for damages procedures in other related areas. Now, when the Act on Damages entered into force, the undertakings that have been involved in the infringement of competition provisions may face the risk of being sued for damages. The harm will be properly quantified in the claims for damages whereas the courts will decide on the amount of compensation. The new provisions will ensure the deterrent effect on undertakings and send a clear message that the violation of competition does not pay.

3. Leniency Regulation has been amended by the adoption of the Regulation on the amendments of the Regulation on immunity from fines and reduction of fines. First purpose of the amendments of Leniency Regulation is to align completely its legal terminology with the new Law on Damages Claims for the breach of competition rules which transposes EU Damages Directive 2014/104 in Croatian legislation. This refers primarily to the definition of leniency statement which is now aligned with the Law on Damages Claims for the breach of competition rules. Secondly, the amendments for the first time introduce summary applications in Croatian Leniency Regulation. The new chapter “Summary applications” regulates the possibility for the leniency applicant to submit summary applications either for immunity or for reduction of a fine to the Croatian Competition Agency or to other national competition authority which the applicant considers might be ‘well placed’ to act in cases when the European Commission is ‘particularly well placed’ to deal with a case relating to the establishment of breach of Article 101. of the TFEU. Thus, main change of the Leniency regulation includes the introduction of summary applications in the cases when the leniency applicant firstly submits its application to the European Commission for the same cartel

¹ <http://www.aztn.hr/ea/wp-content/uploads/2015/06/COMPETITION-ACT-2009.pdf>

on the EU market. Other minor amendments relate to the adjustment of the legal terms from the Leniency Regulation with the EU Damages Directive 2014/104.

1.2. Other relevant measures, including new guidelines

4. The Act on prohibition of unfair trading practices in the business-to-business food supply chain (UTP Act) was adopted in December 2017 and since then the CCA broadened its competence to become implementing body for the unfair trading practices in the business-to-business food supply chain. Transition period for suppliers, buyers, processors and re-sellers lasted until 31 March 2018 when all the contracts that had to be concluded before, must be brought in compliance with the UTPs provisions. Otherwise they became null and void as of 1 April 2018. During the preparation of this legislation, the Agency's representative was a member of the working group as an institution representative who understands the issue of the relationship between large and small undertakings / producers with traders, or the problem of negotiating power of undertakings. Namely, before the food product reaches the final consumer, it passes through a supply chain that makes a number of different market actors (manufacturers, processors, traders, etc.) who add their contribution in terms of product quality and value. But due to recent phenomena such as increased market concentration, undertakings in the chain have very different levels of negotiating power. Although differences in negotiating power are a common and legitimate occurrence in trade relations, imbalances sometimes may be so much that they lead to so-called unfair trading practices. The European Commission has identified four main forms of unfair trading practices applied by traders: retroactive abuse of vague or incomplete terms of contract, excessive and unforeseeable transfer of costs or risk to the other party, use of confidential information and unfair termination of business relationship. In order for the undertakings to more easily adjust their contracts and practices with this new law, the CCA also prepared and published on its website guidelines for all involved stakeholders with answers to the questions that were gathered during the transitional period until the full application of the Act.

5. Last year was especially marked by the specific task of the Agency to work on the Proposal of the EU Directive to empower the competition authorities of the member states to be more effective enforcers and to ensure the proper functioning of the internal market. The CCA actively participated and chaired the Croatian delegation in the competition working group of the Council of the EU where the texts of the proposal were discussed and negotiated. In October 2017, first round of negotiations was completed and first compromised text was adopted. There is unique support for this Directive among EU Member states which find as indispensable that their competition authorities enjoy independence, receive sufficient resources and have all necessary investigative powers in order to efficiently apply EU and national competition law. The provisions on the mutual assistance between competition authorities, especially for the enforcement of the fines and provisions on granting of immunity from criminal prosecution for individuals seemed to be very important for majority of Member states. More detailed provisions on leniency aim at raising the legal certainty for undertakings and enhancing more leniency applications.

1.3. Government proposals for new legislation

6. At the end of 2017, the CCA started preparing amendments to the Competition Act. The purpose of the amendments is to fully align the provisions with relevant EU legislation, to arrange for the termination of the Regulation on Block Exemption in

insurance sector, to solve some requirements regarding administrative law and position of the CCA as a regulatory body.

2. Enforcement of competition laws and policies

2.1. Action against anticompetitive practices, including agreements and abuses of dominant positions

2.1.1. Summary of activities of:

- competition authorities;
- courts;

7. Activities of Croatian Competition Agency in 2017 may be summarised as follows: marking of 20 years of the work of the CCA, assuming of new competence in the unfair trade practices in the food supply chain, finalising the work on the Damages Act, preparation of amendments of the Competition Act, detailed market research was conducted on several relevant markets, significant number of opinions on laws, legislative proposals and assessment of regulatory effects, active management or participation in drafting of two legislative proposals, several cases on prohibited agreements handled, three procedures completed by way of commitments, four sectoral studies completed, and in the area of assessment of concentrations, most of the concentrations were approved in the first phase and only two were approved in the second phase as conditionally allowed concentrations.

8. The proactive promotion of competition law and competition policy and showing the benefits that competition brings to consumers and undertakings continued as an important activity during 2017. In addition to its role in enforcing competition rules, this is another, equally important activity of the Agency aimed at creating a culture of competition for undertakings, consumers, public administrations and the wider public. This activity was realised by issuing large number of legal opinions on the conformity of existing laws and draft laws with the competition rules and by participating in trainings, workshops and conferences on competition issues.

9. One good example of such activity is tenth annual FTC Seminar for South East Europe on Economic Issues in Competition Law in Zagreb organised jointly by the Agency and the Federal Trade Commission of the United States (FTC) in September 2017. The seminar was attended by 40 experts from the National Competition Authorities from South and Eastern Europe (Albania, Bulgaria, Czech Republic, Estonia, Kosovo, Latvia, Macedonia, Moldova, Romania, Serbia, Slovenia and Ukraine). The participants discussed the following topics: the economic aspect of defining the relevant market, establishing market forces of undertakings based on price discrimination, quantitative and qualitative economic tools, market access, net market analysis and the effects of unilateral actions and some legal aspects of the judicial review. The lectures at the seminar were held by FTC economists and other Croatian experts.

10. Another important conference was held on 15 November 2017 when the Agency marked twenty years of its operation by organising an international conference in Zagreb that was visited by more than a hundred experts, judges, attorneys and representatives of academia and business community who took part in the fruitful discussion about the work of the CCA, judicial review of its decisions and challenges in the future. There were two

panels in the conference, one focused on the past experience and future challenges facing the CCA in the implementation of competition rules, whereas the second panel discussion concentrated on the functioning of the judicial review. One of the conclusions of the conference was that, in spite of scarce financial and limited human capacities for twenty years the Agency (CCA) has played a central role in the enforcement of competition rules and creation of competition culture in the Croatian society.

11. Following the publication of the Guide on bid rigging in public procurement by the CCA at the end of 2016, the CCA continued to participate in training programs for undertakings and contracting authorities with the objective of making the new public procurement rules known to the parties concerned, organised by the competent Ministry of the Economy and Entrepreneurship. Namely, in the context of competition rules it is essential for the participants in the public procurement procedure, particularly the contracting authorities, to be able to detect the signs that point at possible bid-rigging or collusive tendering. In order to detect and report about the bid-rigging cartels it is necessary to train all the participants in the public procurement procedure about the suspicious forms, behaviours and patterns of bid-rigging agreements. Only the trained participants will be able to detect unsound behaviour and the signs that the undertakings who infringe competition rules leave behind in the tendering procedure

12. As for the activities of the courts, in 2017, the High Administrative Court of the Republic of Croatia issued 9 judgments in relation to the decisions of the Agency. In all cases, the Court dismissed the claims as unfounded and the Agency's decisions became final.

2.1.2. Description of significant cases, including those with international implications.

13. When it comes to the Agency's enforcement activities, the current competence of the Agency in the area of competition includes the establishment of prohibited agreements between undertakings and the determination of measures, conditions and deadlines for eliminating the harmful effects of prohibited agreements, the establishment of abuse of the dominant position of undertakings and the ban on any further conduct leading to abuse, as well as the determination of the measures, conditions and deadlines for eliminating the harmful effects of such behaviour, as well as the assessment of concentrations between undertakings.

14. In the prohibited agreements, decisions on the dismissal of initiative and on suspension of the proceeding were adopted. In these cases, the Agency conducted preliminary assessment of the relevant market on the following markets: sale of rights to collect strawflowers, banking and financial services of credit institutions, passengers traffic by road, technical examination and registration of motor vehicles, repurchase of fresh milk, distribution and rent of Segway P-t gears, service of transport of school children, wholesale of electrical home appliances and management of buildings.

15. Sales and servicing of the outboard engines- The Agency closed two proceedings for the establishment of prohibited agreements by accepting commitments proposed by the parties concerned – Duing d.o.o. from Viškovo and Fred Bobek d.o.o. from Vodice active in the sales and servicing of the outboard engines. Concretely, the undertaking Duing, concluded sales agreements for the marine engines of Volvo Penta, Tohatsu and ZF Marine, whereas Fred Bobek concluded distribution and servicing agreements for Honda Marine engines and other products. In both cases the Agency based its case on the

indices that the agreements concluded with their partners and repair shops contained provisions that contravened competition rules.

16. Duing included RPM clauses in its agreements where it, in other words, imposed on its partners and repair shops prices for final consumers as determined in its price list. At the same time it imposed on the repair shops the obligation to resell exclusively Volvo Penta and Tohatsu original spare parts that had been exclusively purchased from Duing. If the partner had not complied with these restrictions it would have been excluded from Duing servicing and resale network. Above all, had the repair shop purchased Volvo Penta and Tohatsu spare parts from any other supplier, Duing could have terminated the agreement at any time.

17. In the case of the undertaking Fred Bobek there were indices that by increased pressure on the margin it restricted its distributors to freely set the resale price. At least one of the distributors was imposed a non-compete obligation after the expiry of the contract. After the CCA opened the proceeding the undertakings in question proposed the remedies aimed at eliminating the provisions under the agreement raising competition concerns. Duing committed itself to conclude with its current partners and repairers new agreements that would not contain any anticompetitive provisions. This would also apply to any future agreements. Fred Bobek committed itself to change the RPM provisions determining the sales margin in the agreements with its distributors and repairers and to clearly define that the recommended prices contained in the price lists, agreement or elsewhere are not binding. The non-compete restrictions after the expiry of the agreement would be deleted. The Agency published the commitments offered by the undertakings concerned on its web site (market test) and received no comments of the competing undertakings or other interested parties.

18. Regarding the abuses of the dominant position, majority of proceedings in 2017 were completed by accepting the commitments by undertakings concerned and there was one case where no abuse of dominant position was established. All undertakings concerned provided the Agency with evidence that all the commitments undertaken were fulfilled within the prescribed deadlines. One example of commitment decision is on the following market:

19. No abuse of dominant position case: Provision of repair and maintenance services for the car-makes Land Rover and Jaguar- The Agency found that the undertaking Grand Auto from Zagreb did not abuse its dominant position in the provision of repair and maintenance services for the car-makes Land Rover and Jaguar in the territory of the Republic of Croatia. The sole fact that Grand Auto has been providing these services as an authorised repairer did not produce restrictive effects on competition and did not cause harm to the consumers.

20. The CCA opened the infringement proceeding against the undertaking Grand Auto following a complaint made by the car dealer Karlo that, when Grand Auto became an authorised dealer for Land Rover and Jaguar, stopped to be an authorised repairer for these car-makes in Croatia.

21. During the proceeding it was established that Grand Auto did not accept any other car repairer in the authorised repairers' network but provided the motor vehicle servicing alone. However, the fact that no other repairer could become an authorised repairer for Land Rover and Jaguar motor vehicles did not have any anticompetitive effects and did not harm the consumers in the sense of competition rules.

22. Concretely, the analysis of the documentation investigated by the CCA revealed that more than 90 per cent of the turnover realised from the servicing of Land Rover and Jaguar in Croatia related to the repairs carried out after the warranty period has expired. Considering the fact that repairs under warranty represented a negligible segment in the relevant market the access to the authorised repairers' network could not be considered a serious barrier for the provision of repair services for motor vehicles.

23. No indices of distortion of competition have been established in the closely connected distribution of spare parts for motor vehicles of the car-make Land Rover and Jaguar either. Namely, the complainant referred in its complaint to unequal treatment of the car dealer Karlo that has been allegedly placed at a competitive disadvantage relative to other authorised repairers. In fact, there have been no other authorised repairers besides Grand Auto and the car dealer Karlo purchased the original spare parts for Land Rover from Grand Auto and from one more undertaking, whereas the alternative spare parts have been purchased directly from the suppliers of spare parts. On 31 May 2016 Grand Auto ceased to be the authorised Land Rover and Jaguar car dealer for Croatia.

2.2. Mergers and acquisitions

2.2.1. Statistics on number, size and type of mergers notified and/or controlled under competition laws

2.2.2. Summary of significant cases

24. In the reporting period, area of merger control was again very dynamic with 12 mergers were approved in the first phase and two approved in the second phase. Majority of assessed mergers were in particular markets, such as telecommunications, banking, gas, road transport and construction. No concentration was declared incompatible with competition rules.

Mergers assessed in the first phase

25. RWE Hrvatska and Koprivnica Plin and Koprivnica Opskrba- The Agency (CCA) cleared the acquisition of the majority share capital by RWE Hrvatska in the undertakings Koprivnica Plin and Koprivnica Opskrba. The concentration will have effects in the natural gas distribution market in the territory of Koprivnica-Križevci County where Koprivnica Plin (Koprivnica Gas) is a concession holder for gas distribution, and in the natural gas supply market in the territory of the Republic of Croatia. By the implementation of the concentration concerned RWE Hrvatska enters the natural gas distribution market in Koprivnica-Križevci County. Given the fact that the natural gas distribution is a fully regulated activity and it is not possible to provide it without a concession that covers a precisely defined area of the local administration unit concerned, the implementation of this merger will not change the structure of the relevant market. The taking over of the market share that Koprivnica Opskrba (Koprivnica Supply) holds in the natural gas supply market in the whole territory of the Republic of Croatia will strengthen the total market share of RWE Hrvatska in the gas supply market at the national level that will amount to up to 5%. The leaders in this market are Prvo Plinarsko Društvo holding a market share of 20% to 30% and Ina holding 15% to 20% of the relevant market. On the other hand, the vertical integration within the RWE Group will enable Koprivnica Opskrba to purchase gas from foreign gas suppliers and, given its strengthened bargaining power, also from the Croatian sources of supply where it would

result in lowering of the cost of transport. Namely, in spite of the fact that transport cost per unit is regulated in the gas supply market, the implementation of the concentration will lower the transport cost per unit. In the further liberalisation of the gas market and potential agglomeration in the gas supply market in Croatia, based on the acquired concession areas for distribution and on the deployment of a new distribution network, RWE Hrvatska sees its opportunity for spreading its business and its presence in the market. In this way the natural gas will be more available to the final consumers at lower prices. The CCA has not received any replies to the published Request for Information and it cleared the concentration in the first phase.

26. OTP Bank and Société Générale-Splitska Banka- The Croatian Competition Agency (CCA) cleared the concentration on the basis of which OTP Banka Hrvatska acquires a direct controlling interest over Société Générale-Splitska Banka, and indirectly over the undertakings SG Leasing, SB nekretnine, SB Zgrada and Société Générale Osiguranje.

27. OTP Banka and Splitska Banka are both universal banks operating in the entire territory of Croatia. The concentration will lead to a new entity, a bank with a market share higher than 10% and taking the fourth place of the biggest banks in Croatia. The concentration will create significant competitive constraints on the remaining three strongest market players – Zagrebačka, Privredna and Erste banks. In the late second quarter of 2018 Splitska Banka is planned to be merged with OTP Banka whereas full integration is planned by the end of 2019.

28. In accordance with the observations of the notifying party, given the fact that the banks adopt pricing strategies at the national level, due to the competitive constraint and the further decrease in the national reference rate (NRR) the concentration could lead to a decrease in the average interest rate in the market, which would result in lower interest rates for final consumers in Croatia. A detailed analysis of all submitted data lead the CCA to the conclusion that the implementation of the concentration will produce effects in the relevant market involving the receiving of the money deposits and the approval of loans and other placements in the territory of Croatia and some counties. Within the analysis of the relevant market and its particular parts the CCA established that regarding the citizens' total money deposits and fixed-term deposits as well as the placed housing loans and all-purpose cash loans the market share of the new entity – OTP Banka will raise in Split-Dalmatia, Dubrovnik-Neretva and Zadar-County. In these counties the parties to the concentration traditionally and historically have had strong market positions particularly due to the well-known loyalty of the domicile clients to the local banks. Yet, this will have no anticompetitive effects in these parts of the relevant market owing to significant competitive constraints and the size and power of the three biggest competitors that hold almost 60% of the assets and received deposits of all the banks in Croatia.

29. In addition, in all the listed counties there are sub-branches of other competing banks, which leaves the clients the freedom to choose. There are also no regulatory barriers to open new offices. What is more, internet banking and mobile banking represent a fast growing distribution channel compared with brick-and-mortar offices – the fact that contributes to strengthening of the competitive constraint on the leader in the market segments at issue in three counties.

30. Besides the acquisition of the direct controlling interest over Splitska Banka, OTP Banka also acquires indirect control over the undertakings SG Leasing, SB nekretnine, SB Zgrada and SG Osiguranje. However, it must be noted that the effects of the

implementation of the concentration on the real-estate market, investment funds' management market, life insurance market and the leasing market will remain insignificant. The CCA has not received any replies to the published Request for Information and it cleared the concentration in the first phase.

31. Baunit and WP- The Agency (CCA) cleared in Phase I the concentration between the undertakings Baunit Beteiligungen from Austria and W&P building materials from Croatia consisting of W&P Baustoffe Austria and its shares in other undertakings including the entitled branding and domain name, particularly involving the group of brands Baunit and Kema.

32. The transaction will have effects in several European countries whereas its effects in Croatia will derive from the overlapping activities of the connected undertakings to the participants of the concentration with their seat in Croatia, precisely, involving the following undertakings: I.T.V., Baunit Croatia and Kema. The concentration will therefore produce effects in the manufacturing and distribution of mortar and plaster used for building walls and flat roofs in several Croatian regions, whereas the effects on the whole territory of Croatia will include gluing material and flattening paste, paste and protective coatings and thermal insulation materials – ETICS. In addition, through its connected undertakings – Austroterm and Lovrenčić – Baunit is present in Croatia in the insulation materials market and the building materials retail market.

33. Following the implementation of concentration Baunit will slightly strengthen its market position holding the market shares from 0-5 % to maximum 10-20% in the mortar and plaster market. In the gluing material and flattening paste market after the implementation of concentration Baunit will take the leading position in the relevant market concerned with some 20-30% market share, whereas in the paste and protective coating market it will take the second position with a market share amounting to some 10-20%. It will hold the second position also in the external thermal insulation systems market – ETICS. The assessment of all the received documentation by the CCA showed that there is a noteworthy number of competing undertakings in the relevant markets concerned, such as ROFIX, Samoborka, Chromos Svjetlost and Bekement, with their respective market shares of some 10-20 % depending on the relevant market concerned.

34. Secondly, it showed that the scope of vertical integration of the participants to the concentration is not significant where the undertakings concerned make their purchases from independent players. What is more, the implementation of concentration will reduce the costs and consequently produce positive effects of the economy of scale that will ensure the purchase of building materials for the participants of the concentration from both the connected and independent undertakings under more favourable conditions compared with the pre-merger period. This should actually decrease the prices for the final consumers. Taking all above said into account, the CCA found that the concentration in question will not have negative effects on competition and cleared the concentration in the first phase. No replies or comments to the CCA public request for information have been submitted.

Mergers assessed in the second phase

35. CCA extended the duration of the concentration HT/Optima and gave conditional approval of the merger of H1 Telekom and Optima Telekom

36. The Agency (CCA) adopted a decision on the basis of which Hrvatski telekom (HT) is committed to start selling all its shares in Optima Telekom in January 2020 (from

1 to 31 January 2020) in a competitive international call for tender and the ad published in at least one respectable international financial journal.

37. The sales process, which is to be transparent, objective, non-discriminatory and in accordance with best practices, must be prepared by HT no later than six months before the beginning of the sale, in other words, by 1 July 2019. HT is obliged to inform the CCA about the process and the data involving the assessment of the value of Optima. During the preparation of the sales process, an independent consultant will estimate the value of Optima. In the event that within six months from the starting date of the sale of the shares, there would be no interest for Optima's takeover, or if the bids submitted for the purchase of Optima shares would not turn out objectively acceptable, HT shall engage an investment banker mandated to assist the sale of Optima. Should Optima's shares not be sold by 10 July 2021, in other words, within the seven-year period of HT managing the operation of Optima's businesses, HT's control over Optima shall automatically cease and HT would have to transfer all the management rights in Optima to Zagrebačka banka or to an unrelated third party.

38. This new decision of the CCA partially repeals its decision of 19 March 2014 in the sense of which it conditionally approved the concentration between HT and Optima Telekom. Some circumstances that could not be predicted or avoided and that have been beyond the control of the parties to the concentration lead to the situation in which certain commitments defined in the 2014 decision could not be met within the prescribed deadlines. Consequently, the new decision defines new measures, conditions and deadlines that must be met by the parties to the concentration in the forthcoming period, with the view to retaining Optima as the third independent rival in the relevant market, or to open, through the sales of Optima, a possibility of creating a new third operator in the Croatian telecommunication market. Therefore, this new decision sets forth that if two or more offers of equal value should be made during the sale of Optima shares, advantage in the purchase will be conferred to the bidder that, at the moment of the purchase, is not present in the relevant market.

39. The new decision further specifies the conditions for the management of Optima in the period in which HT exercises control over it, while the remedies concerned refer to Optima's assets expressed as the customer base and infrastructure.

40. First, Optima committed itself to allowing the use of free colocation space during the duration of the concentration on all its colocations existing prior to the merger with H1 Telekom, provided that it can ensure conditions for rent or sub-rent. In order to comply with this measure, Optima will design a Minimum Offer that will determine the terms and procedures for making a request for free capacity utilisation. Optima is also obliged to offer to the interested parties the purchase, lease or sublease of emptied H1 colocations from which H1 will migrate to Optima's colocations. The purchase procedure must be transparent – based on a competitive call for tenders – and Optima must complete it within one month after the migration. The commercial conditions for sub-rental of free space including the price of use must be based on objectively justified costs for the implementation of this measure. Optima also committed itself to publish its wholesale offer, based on which interested third parties may also use H1 Telekom infrastructure.

41. Taking into account the new conditions stated in these two decisions of the CCA, HT and Optima are both committed to re-select a trustee that will monitor the fulfilment of the imposed measures and submit regular reports to the CCA. The trustee's re-selection and operation costs shall be borne by Optima.

42. Like in previous years, in 2017 the Agency dealt with control of concentrations in the media and electronic media market. Namely, undertakings participating in concentrations in this sector often fail to fulfil the legal obligation to notify concentration to the Agency. This trend is repeated year after year, and was present in 2017. Since the failure to notify constitutes a violation of the Competition Act, the Agency in such cases initiates the procedure ex officio, and imposes fines of up to one percent of the total undertaking's income from the year prior to the concentration. There were three cases in which those fines were imposed in the total amount of 79.000 HRK (approximately 13.145 US\$).

3. The role of competition authorities in the formulation and implementation of other policies, e.g. regulatory reform, trade and industrial policies

43. The competition advocacy activities continued to be largely represented in 2017 and most of those activities resulted from the opinions delivered by the Agency in previous periods, based on an analysis of the existing regulations and recommendations for their alignment with the competition rules. In 2017, several opinions were given on the laws and secondary legislation, one expert opinion in the sector of electronic communications was issued, while there were also different requests for information from different legal and natural persons, professional chambers and local and regional government and self-government.

44. Here below is one example of the legal opinion submitted regarding Ordinance on pricelists for services of the Croatian association of forestry engineers- Based on the writing received from the Croatian Chamber of Forestry and Wood Technology Engineers the Croatian Competition Agency (CCA) issued its opinion on the proposed Ordinance on pricelists for services and standard of services. The CCA additionally analysed the Statute of the association and the Code of Ethics for Engineers.

45. A comprehensive analysis indicated that the association in question not only prescribes minimum prices or fixes the prices of the services provided by the licenced engineers, but also sanctions its members if they do not obey these rules and charge lower prices. Namely, the regulations say that ... "it is the duty of a licenced engineer to respond to the request of the Chamber and communicate to the Chamber or its bodies the data indicating that he obeys the set minimum prices for the provision of services. If so prescribed checks show that a licenced engineer has entered into or completed a deal below the price set under the Ordinance on pricelists for services and standard of services, competes in the market with lower prices than those prescribed and charges less than the price set under the Ordinance on pricelists for services and standard of services, such behaviour shall be considered a serious breach of duty and shall harm his reputation".

46. Without any prejudice to the right of the association in question to adopt an Ordinance on pricelists, in its opinion the CCA particularly noted that such a conduct must not be in contravention with competition rules. When setting the prices for the provision of its services the association should not set minimum prices or fix prices and must allow its members to charge lower prices than those set under the Ordinance on pricelists if this is in their economic interest. If they wish to charge less, they should not be retaliated by the association for their behaviour. Competition law absolutely bans prescribing minimum prices or fixing prices. Where hourly rates are so defined that they de facto fix the actual price for the provision of the services, such behaviour raises competition concerns beyond any doubt. Instead the price competition between the

players, there is restricted or no competition in the market. Such behaviour repeals market mechanisms and competitive constraints that would make the market players focused on more cost related operation and making high-quality, affordable products, while at the same time it excludes the freedom of choice and price for the product concerned and harms the end consumers.

47. On the other hand, the CCA pointed out that the methodology and calculation of the hourly rates does not per se raise competition concerns given the fact that they involve certain technical and professional standards and therefore have positive effects on the quality of the service defined by the professional association. However, setting the value or the amount of charges of the hourly rate could raise competition concerns if they reflect the actual price for the service offered by an undertaking in the market. This price should be in the first place the result of the supply and demand indicators and effective competition in the market.

48. On the contrary, setting of the maximum or recommended price in principle has positive effects on competition and thereby protects the consumers – buyers and users of the service given the fact that it prevents the service provider from charging an unrealistically high price with respect to quality of the service. In other words, this enables the service provider to independently set, as a rule, a lower price of the service under the set cap amount, with no fear of retaliation. In this manner competition ranging below the maximum charges for the service is ensured.

49. Furthermore, the CCA comments that within the meaning of competition rules it is neither desirable nor appropriate to link the quality of the service exclusively to its price, taking into account that the price of the service depends on the cost and expected profit by each undertaking – provider of the service. What is more, the price of the service should reflect the knowledge and the skill, efficient performance and cost of the service provider, and not necessarily be exclusively linked to the value of the work or service. Concretely, every individual undertaking – provider of the service should be free to independently set the price for its services as agreed with its contractor, regardless of its competitors. In this context, it is important to say that the recommended or maximum price may not have the effect of the fixed price. Yet, the price may be based on the information exchange concerning the price trends in the market in a particular period or the historical prices or data published by independent associations or organisations. However, it should never reflect the intention of the professional organisation that has as its object co-ordination of the behaviour of its members in the market.

50. Additionally, the CCA draws the attention that the decisions of the European Commission, the EU case-law and the reports of the Member States in the area of liberal professions not only abandon the approach involving price regulation by professional organisations, on the account of the fact that regulation in the sector of professional services, even though it may be justified, for instance to reduce the asymmetry of information between customers and service providers, in certain cases more pro-competitive mechanisms can and should be used. Such behaviour may distort competition and even limit the fall in prices for these services. On that account the EU case-law envisages that the national competition authority may order the disapplication of the national law that contravenes Article 101 of the Treaty on the Functioning of the European Union relating to restrictive agreements entered into between undertakings in the market, as well as Article 102 of the Treaty relating to the ban of any abuse of a dominant position by the undertaking in the market, particularly if the challenged practices involve direct or indirect price fixing.

51. For the reasons mentioned above, the CCA noted that the above Ordinance on pricelists for services and standard of services proposed by the professional organisation concerned and other ancillary regulations should be brought into compliance with competition rules as soon as possible.

4. Resources of competition authorities¹

4.1. Resources overall (current numbers and change over previous year):

4.1.1. Annual budget (in your currency and USD):

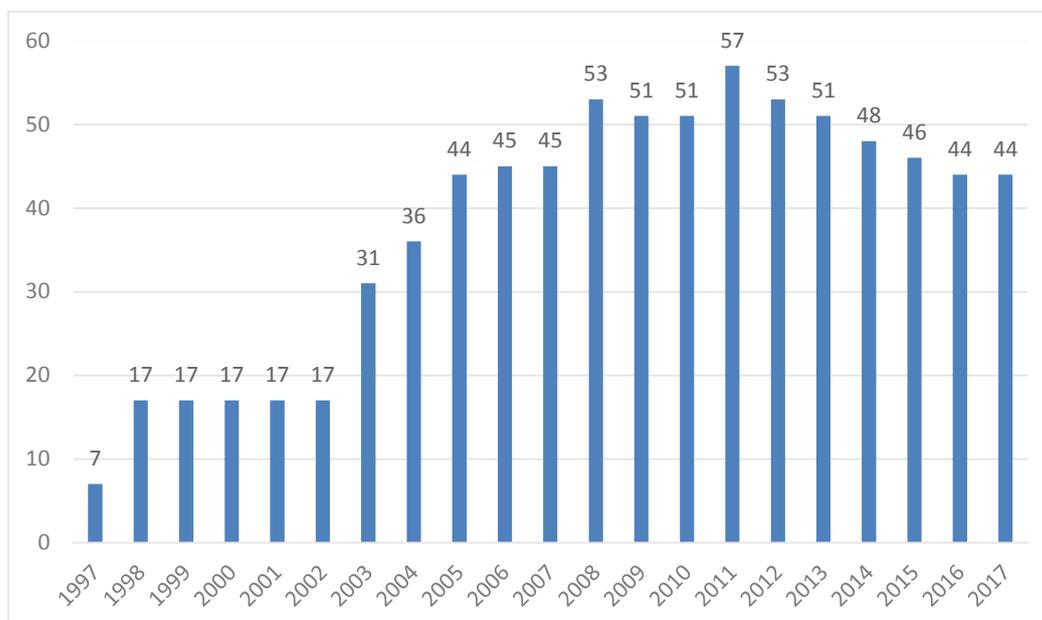
52. Planned resources for carrying out activities within the competence of the Agency in the State Budget for 2017 amounted to 11.348.740 HRK (1.875.890USD). Execution of expenditures amounted to 11.117.685,41 HRK which represents 98% of the plan.

4.1.2. Number of employees (person-years):

- Economists - 14
- Lawyers -17
- Other professionals – 4 (IT and PR)
- Support staff - 9
- All staff combined - 44

53. In 2017, the Agency had 44 employees, including five members of the Competition Council. Employees title structure is shown in the following graphs:

Figure 1. Number of employees in the Agency in the period of 1997 – 2017

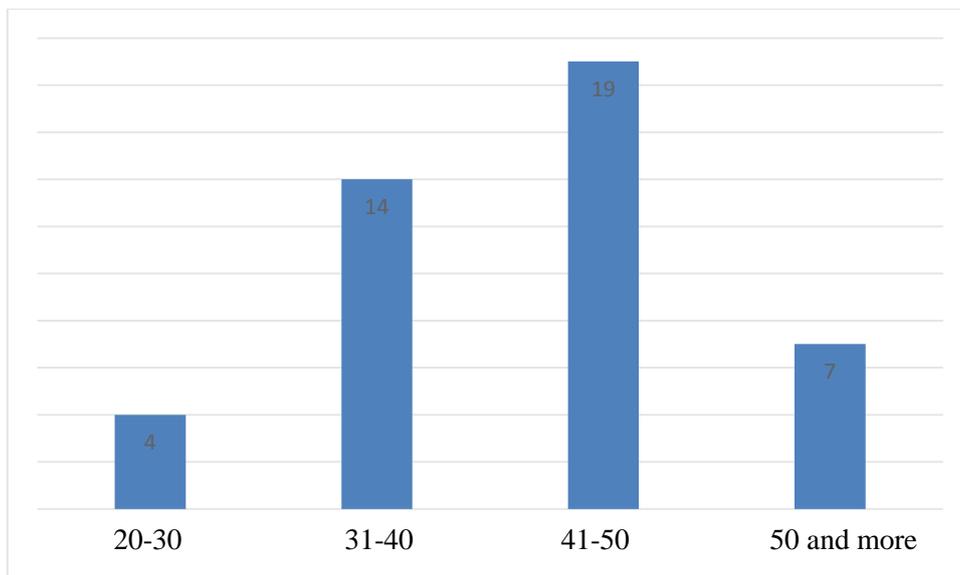


Source: Croatian Competition Agency.

Figure 2. Employees structure by the degree of professional qualification

Note: PhD - Doctoral Degree, MA - Master, PG - Post graduates, BA - University graduates, AD - Associate degree, High school education.

Source: Croatian Competition Agency.

Figure 3. Employee structure by age

Source: Croatian Competition Agency.

54. Most of the employees are graduated economists or lawyers, a total of 70%. All lawyers-case handlers must have passed a bar examination, and out of a total of 17 lawyers, 17 have passed a bar examination. One lawyer holds PhD.

4.2. Human resources (person-years) applied to:

- Enforcement against anticompetitive practices²: 15
- Merger review and enforcement: 4
- Advocacy efforts: 3

4.3. Period covered by the above information: 1 January-31 December 2017

5. Summaries of or references to new reports and studies on competition policy issues

55. In 2017, the Agency completed three in-depth sectoral market researches: market research on the insurance sector in Croatia, market research on press publishing media and its regular annual groceries retail market research in the Republic of Croatia.

56. Croatian press publishing market in 2015 and 2016 was one of the market studies that the Agency (CCA) carried out with the view to defining the market shares of the relevant market participants. The data base obtained reflects the market structure of the relevant market. The market investigation covered the undertakings listed in the Register of press publishers and distributors of the Croatian Chamber of the Economy in line with the Media Act.

57. This market investigation included a total of 53 newspaper publishers and distributors and involved the following segments: press circulation (general information dailies and weeklies), print advertising in general information dailies and weeklies and press distribution in the territory of the Republic of Croatia. The press publishing market in Croatia is regulated under the Media Act that beside other matters stipulates how to protect competition in the public information domain. The Media Act prohibits any concentration in the general information dailies or weeklies publishing industry where the post-merger market share of the parties to the concentration would exceed 40 % of the total circulation market in the territory of Croatia.

58. The concentration indicators show that the general information daily newspapers market is highly concentrated and records no significant changes since 2015. The CR4, that is to say, the combined market share of the four dailies with the highest circulation was 83.38 % in 2016, compared with 2015 when it was 83.35 %. HHI in the general information daily newspapers sector in 2016 was 2.146 points whereas in 2015 it was close to 2.141 points – the figures undoubtedly indicate a highly concentrated relevant market.

59. There have been 4.3 million copies of general information weeklies sold in Croatia in 2016. Although every copy sold has been included in the calculation regardless of the range of distribution (national or regional) the figure declined by 13 % compared with the previous year.

60. Advertising in general information dailies and weeklies make up for 75 % of the total revenue of the publishers from advertising. Hanza Media Grupa, the publisher of the “Jutarnji list” with a market share of 20 % to 30 % is the market leader in the dailies advertising market. There was only one player present in the press distribution market

(wholesale) in 2016– the undertaking Tisak d.d. from Zagreb that experienced a revenue fall.

61. With respect to the press retail market the CCA included in its market investigation exclusively the sales of newspapers in specialised newsagents' and tobacco shops owned or leased by distributors in kiosks or similar standalone shops, the sales in kiosks owned by other undertakings that primarily do not act as distributors, the subscription sales and newsboys' sales (direct sale by the publishers) and the sales based on Newspaper Direct's digital newspaper distribution of foreign press for hotels.

62. The market investigation did not include the sales in other non-specialised shops or in specialised shops by undertakings who do not dispose of a retail network or chain of shops. The data collected by the CCA indicate that the total revenue realised from the press retail in 2016 amounted to 362.7 million Kuna or 5 % less than in the previous year. Compared with 2015 there was a retail growth recorded by most publishers with the exception of the publishers of the "Večernji list", "Slobodna Dalmacija" and "Glas Slavonije", whereas a retail drop was experienced by the traditional newsagents Tisak and iNovine that own the majority of the specialised retail shops. However, taking into account the raising trend indicated by the newspaper publishers in the retail of newspapers, it is apparent that the newspaper publishers have increased their direct sales and subscription sales with the view to strengthening their independence from the press distributors and retaining the part of the revenue.

63. Secondly, the market study of insurance sector in the Republic of Croatia in 2016 was carried out. On the basis of the data submitted by the Croatian Insurance Bureau and other sources of data available to the public the objective of the CCA was to establish the insurance market data base in the Republic of Croatia.

64. The insurance market investigation included the life and non-life insurance market with a special emphasis on the automobile insurance market. The market shares held by the undertakings in certain market segments have been determined on the basis of the total gross written premium.

65. In accordance with the CCA's market study the biggest change in the insurance industry in 2016 was brought about by the introduction on the new Solvency II Directive. The new Insurance Act that entered into force brought significant changes in respect of the calculation of the capital requirement, valuation of assets and other liabilities, calculation of technical provisions, level of eligible own funds necessary to cover their solvency capital requirements and the minimum capital requirement. With respect to the legal and institutional framework it has been established that the Statute of the Croatian Insurance Bureau has recently been revised. Consequently, since February 2017 the provision has been deleted stipulating that the insurance company whose share in the total gross written premium exceeds 25 per cent of the insurance market is entitled to have two members in the board of directors. The provisions that limited the terms of office of the members and the deputy-members of the board of directors to four years, with the possibility of re-appointment have also been repealed.

66. In 2016 there were 21 insurance companies active in the Croatian market. There has been no legal or factual barrier to entry, whereas the market was to a great extent regulated by the specific regulator – Croatian Financial Services Supervisory Agency (HANFA), says the CCA market investigation. The insurance market slightly rose by 0.5 per cent compared with 2015. The total gross written premium amounted to HRK 8.76 million in 2016 and HRK 8.72 million in 2015. What went up in the report period was the

non-life insurance market, particularly the automobile insurance market – third party liability insurance by 12.5 per cent and health insurance by 24.3 per cent. The highest gross written premium in 2016 was realised by Croatia osiguranje that held a 29.2 per cent market share (including Croatia zdravstveno osiguranje – Croatia Health Insurance that was in 2016 still a separate company), which made this company the number one insurance company in the Croatian market. However, its total written premium fell slightly in comparison with 2015 and so did its market share.

67. Croatia osiguranje is followed by Agram Group, whose members – Euroherc osiguranje, Jadransko osiguranje and Agram Life indicated a rising trend in the insurance premium whereas their combined market share in 2016 amounted to 19.4 percent. If these companies are taken individually, it is evident that Agram Life recorded a more significant rise in the gross written premium in nominal amounts. The company Allianz Zagreb also recorded fall in the gross written premium, adequately also in its market share. In 2016 its share in the insurance market was 12.7 per cent. Wiener osiguranje VIG together with Erste osiguranje VIG continued to rise slightly, whereas their market share was 8.75 per cent and consequently they took the fourth place on the insurance market leaders list where it squeezed out Uniqa osiguranje that in the year of 2016 showed certain fall in the gross written premium, and consequently, of its market share. In the same period Triglav osiguranje recorded a 7.2 per cent-rise in the gross written premium, as well as Generali osiguranje whose growing rate was 4.1 per cent. At the same time Generali osiguranje held the market share of 5.7 per cent, while Triglav osiguranje's market share was 4.2 per cent.

68. Commonly used market concentration measures were used for showing the insurance market concentration – the concentration ratio (CR) and the Herfindahl index (HHI). The concentration ratio is the measure of the percentage market share in an industry held by the largest firms within that industry, whereas the Herfindahl index is simply the sum of the squares of the market shares for each firm within the industry and is always less than one.

69. In 2016 CR5 with respect to individual insurers was 61.6, which means that CR fell in comparison with the CR in 2015 when it was 63.4. On the other hand, when insurers are regarded as connected undertakings (constituting one economic entity) the CR5 in 2016 was 76.6, whereas in 2015 it was 77.1.

70. HHI of the overall insurance market in 2016 as regards individual insurers was 1.165, and it also fell compared with the HHI of 2015 then amounting to 1.212. When the insurers are taken as connected companies, HHI in 2016 was 1.569, similarly as in 2015.

71. The market concentration data generally indicate that the market insurance market in Croatia in 2016 was relatively well structured indicating moderate market concentration whereas there has been a falling trend in the concentration ratio in comparison with the previous year.

72. After a three-year rising trend in the past the gross written life insurance premium in 2016 went down slightly, by 0.5 per cent, relative to the previous year. The premium amounted to HRK 2.92 billion whereas fall was in the first place linked to the substantial lowering of the premium recorded by Uniqa osiguranje in the segment of life insurance. The most prominent players in the segment of life insurance were Allianz and Croatia osiguranje who had similar market shares in 2016 – 18.5 per cent and 18.3 per cent respectively, followed by Wiener osiguranje VIG with a market share of 10 per cent, Grawe Hrvatska with 8.7 per cent and Agram Life osiguranje with 8.6 per cent market

share. There were 14 insurers active in the life insurance market in Croatia in 2016. In 2016 CR5 in the segment of life insurance when insurers are taken individually was 64.1, which means that CR slightly fell in comparison with the CR in 2015 when it was 65.4. On the other hand, when insurers are regarded as connected undertakings the CR5 in 2016 was 70.1, whereas in 2015 it was 71.3. HHI of the life insurance market in 2016 as regards individual insurers was 1.166, and it also slightly fell compared with the HHI of 2015 when it was 1.162. When the insurers are taken as connected companies, the HHI in 2016 was 1.286.

73. In the segment of non-life insurance the gross written premium in 2016 amounted to HRK 5.8 billion, which means that it went up by 1 per cent compared with 2015. The market leader in this segment Croatia osiguranje held a market share of 29.7 per cent. The additional 5 per cent market share was held by Croatia zdravstveno osiguranje – resulting in a combined market share held by this company amounting to 34.7 in 2016. Agram Group with its members – Euroherc, Jadransko osiguranje and Agram Life held the market share of 24.8 per cent. Allianz Zagreb held 9.9 per cent of the market, followed by Uniqa osiguranje, Triglav osiguranje, Wiener osiguranje VIG, Generali osiguranje with their respective market shares of 5 to 6 per cent. There were 18 undertakings present in the non-life insurance market in Croatia in 2016.

74. In the segment of non-life insurance in 2016 the CR5 with respect to individual insurers was 69.3, which means that the CR fell in comparison with the CR in 2015 when it was 71. On the other hand, when ownership ties of the insurers are taken into account the CR5 in 2016 was 80.6, similar to 2015. HHI of the non-life insurance market in 2016 as regards individual insurers was 1.432, and it also fell compared with the HHI of 2015 when it was 1.505. When the insurers are taken as connected companies, the HHI in 2016 was 2.047.

75. Taking into account the data indicated above a conclusion can be drawn that the non-life insurance market in Croatia in 2016 was relatively well structured, showing a moderate concentration that was somewhat higher than the concentration of the overall insurance market and the life insurance market. The motor car insurance market – including both the third party motor insurance (compulsory third party insurance) and the comprehensive automobile insurance took a share of 32.5 per cent in the total gross written premium in the insurance market in 2016, showing a slightly rising trend.

76. The gross written premium in the third party motor insurance in 2016 was HRK 1.94 billion whereas in 2015 it was HRK 2 billion. There was a falling trend in the written insurance premiums. The gross written premium in the comprehensive automobile insurance in 2016 was HRK 737.5 million and it rose compared with 2015 by 12 per cent. This positive trend is linked to the raising number of the registered motor vehicles – 123,206 in total in 2016 or 30 per cent more than in the previous year, predominantly as the result of the rising purchase of fleet vehicles that are in principle covered by the comprehensive automobile insurance.

77. There were 13 insurers active in the car insurance market. Eight of them recorded fall in the premium, most of all Allianz Zagreb, Croatia osiguranje, Euroherc osiguranje, Uniqa osiguranje and Grawe, while the premiums of Jadransko osiguranje, Triglav osiguranje, Izvor osiguranje, Velebit osiguranje and Ergo osiguranje went up. The highest market share of 36.1 per cent in the third party insurance for motor vehicles was held by Agram Group (Euroherc osiguranje and Jadransko osiguranje), followed by Croatia osiguranje with 23.3 per cent market share, and Allianz, Wiener osiguranje VIG, Triglav, HOK osiguranje, Uniqa, Generali, that individually held a market share between 5 and 7

per cent. Compared with the 2015, the CR5 in the compulsory third party insurance for motor vehicles in 2016 was 72 if the players in the market are taken individually and 77.7 if they are regarded in the market investigation as connected companies. In that regard the concentration ratio fell insignificantly. HHI in the compulsory third party insurance for motor vehicles in 2016 was 1.420 if the players are taken individually or 2.053 if regarded as structurally connected entities.

78. The third party motor insurance market investigation carried out by the Croatian Competition Agency (CCA) particularly analysed the car insurance premiums and prices. The objective of this market study was to identify the changes this market has undergone compared with the findings of the CCA market investigation covering 2013 and 2014. The newest results show that the compulsory third party insurance market in Croatia is competitive and well-structured. The results of the investigation reflect efficiencies in the form of product differentiation that brings about benefits for the consumers, particularly a wider choice. Competition has been intensified and the insurance companies have changed their premium schemes. The major change in the compulsory third party insurance market in 2016 is that most insurance companies have abolished the geographic criteria in determining the amount of compulsory insurance contribution for trucks, meaning that the whole territory of Croatia is now regarded as a “one-risk zone”. All road transport vehicles now enjoy more favourable terms and lower prices of insurance policies. The market investigation also indicated positive trends in the compulsory third party insurance for the passenger cars that now benefit from a better choice of insurance products and favourable premiums offered by insurance companies to final consumers, particularly based on “individualised” or tailor-made insurance policies.

79. The same as in the previous year in 2016 there were 13 insurance companies active in the third party motor insurance and the comprehensive automobile insurance market. In 2015, which was the last full calendar year in which a comprehensive data were gathered for the market inquiry, Herfindahl-Hirschman index (HHI), as a commonly accepted measure of market concentration, was 1.500 – showing a fall compared with the previous years and thus indicating a competitive market structure. The average premium paid was some one thousand Kuna, whereas the total gross written premium for third party automobile insurance was some 12 billion Kuna in 2015. In comparison with the year 2015 the number of issued policies increased in 2016 by 5.6%.

80. In 2015 the highest market share in the third party automobile insurance was held by Croatia osiguranje followed by Euroherc osiguranje and Jadransko osiguranje, both members of the Agram Group. The fourth market player on the list of the biggest insurance companies in third party car insurance was Allianz Zagreb. Regarding the insurance groups, the highest market share has been held by Agram Group, followed by Croatia osiguranje, Allianz and VIG Group.

81. Significant changes in risk zones – geographic criteria in determining the amount of motor insurance contribution abolished. The CCA focused in this market inquiry first, on establishing facts with respect to risk zones, i.e. determining the amount of compulsory insurance contribution (functional premium), and second, on analysing the pricing of insurance premiums depending on the registration areas. A comparative analysis of prices was carried out based on a sample of vehicles.

82. The analysis showed that risk zones are somewhat still used for the calculation of the functional premium and the overheads. This model is based on aggregate statistical data and indicators. However, it has been established that individual insurers use their own statistical data and develop their own actuary models. The use of the uniform

functional base (zone) has positive effects on road transport operators. On one hand, the price of the compulsory third party insurance dropped, on the other hand, extreme differences in prices that formerly depended on the geographically determined zone of risk and therefore produced harm for the road transport operators with registration plates in high-risk zones have been abolished. For the sake of comparison, the CCA market inquiry for 2013 showed that the price that all insurance companies charged for the insurance policy for a truck selected by the CCA as a sample in the geographical area of Daruvar (the lowest risk zone) was 12,000 Kuna. No more favourable offer was possible at that time. On the other hand, the price of insurance for the truck carrying the Zagreb or Krapina registration plates was some 22,000 Kuna – again charged by all insurance companies and no more favourable conditions. Namely, all insurance companies used in principle the same elements for calculation of the third party insurance premium, particularly the geographical criterion consisting of seven risk zones applicable under the former Basic Premium Scheme that was in effect in the territory of the Republic of Croatia and valid for the calculation of the third party motor insurance premium for almost thirty years.

83. The most recent CCA inquiry shows that three years later the road transport operators have a wider choice springing from the product differentiation in respect of the third party motor insurance policies. Concretely, the application of the uniform risk zone criterion on the whole territory of the Republic of Croatia brought about lower prices and more favourable terms in third party motor insurance for all road transport operators. Particularly significant savings of more than 50% of the former insurance policy price are recorded now by the trucks with the Zagreb and Krapina licence plates. The prices are the same for all trucks of the same make and category within the territory of Croatia.

84. Within the meaning of competition rules the CCA welcomes the changes, in particular on the account of the fact that these removed competition concerns that were raised in the last year market investigation. On many occasions the CCA has reacted publically and indicated that if a truck displays licence plates from a certain region it does not necessarily mean that it carries out its transport services exclusively in the area concerned. On the contrary, the transport activity is at least marked by the area in which the truck was registered and got its licence plates. Transport is provided within the national borders or even within the EU integral market and this mostly affects the conditions and the competitiveness in the transport sector. Therefore, the changes spotted in the market may have positive effects on competitiveness of certain transport operators, both in the Croatian and the EU market.

85. The changes described above were also somewhat reflected in the passenger cars insurance policy, in the first place in the setting up of the risk zones and the pricing policy.

86. In the passenger cars insurance the CCA found positive trends in the wider choice of products and more dynamic competition that lead to more favourable third party motor insurance.

87. Whereas in 2013 the differences in the prices of third party insurance premiums in a particular risk zone for the same vehicle were negligible, in 2016 the CCA market inquiry on a sample of all classes of motor cars (small, medium and large cars) indicated differences in the prices of insurance policies and greater choice for consumers. The “individualisation” trend means that a series of new elements are introduced when calculating the third person motor insurance policy by different insurance companies. By way of illustration, a new parameter was introduced when calculating the amount of

contribution – “the age of the policy holder”. In spite of the fact that the age span and the number of categories differ from one insurance company to another, the results of the study indicate that the drivers in their 30s and 40s are considered to be the drivers in the lowest-risk category whereas young drivers indicate more risky behaviours. In addition, in accordance with the results of the survey one of the insurers claimed 11 age groups, whereas other may have not more than 4, which also reflects the differentiation of policies. Additionally, the car make and the technical characteristics of a motor vehicle are also taken into account by some insurance companies in the assessment of risk. For instance, one insurance company classifies 16 types of vehicles, whereas the other one provides for 28 classes. A no-claim bonus (NCB) also varies from insurer to insurer. Some insurers give more than 50% discounts that were the cap amounts applicable in the former years. There is also a possibility of transferring any NCB you’ve built up on your spouse or on your company. Benefits are also available for close members of the family. Some insurance companies offer NCB retention where the basic premium new add-on cover is offered by insurance companies.

88. Finally, the Agency carried out the groceries retail market investigation, covering food, beverages and sanitary products for households. The market investigation involved a sample of 51 undertakings that in accordance with their turnover represent most significant participants in the food retail market. This market investigation did not include the groceries retailers that carry out their businesses under the Trades Act or the shops whose primary activity is not the selling of food, such as petrol stations or chemists or other specialised stores that sell particular groups of food products, such as bakers and butchers shops etc.

89. The realised turnover of all the undertakings that were included in the market investigation for 2016 amounted to 33.9 billion Kuna, which actually means that the rising groceries retail turnover trend has been slowing down compared with the previous year. There have been 31 undertakings whose turnover has risen, whereas 19 undertakings recorded a decreasing turnover.

90. The 2016 market research shows that whereas there has been only one smaller takeover of a direct rival in the market – the one in which Lonja from Kutina took over further 20 outlets of Dinova-Diona, the regional and local retail indicated most dynamic takeover activities. The local retailer Istarski Supermarketi from Poreč took over 28 smaller local retailers’ outlets, Trgostil from Donja Stubica took over eight Zaprešićanka outlets and one Dinova-Diona outlet, Prehrana Trgovina leased for use one outlet, Puljanka concluded a lease with three self-service stores in Istria County, Mlin and bakeries from Sisak took over five outlets of Papuk from Našice and 13 smaller, local ones, whereas NTL d.o.o. acquired 16 outlets (mostly from natural persons and smaller resellers – legal persons). These transactions consequently increased the turnover of the local and regional resellers that rose significantly more than that of the biggest top-10-retailers. This upward trend from the previous years continues and indicates the “resilience” of the small retailers that are able to sustain in the competitive environment.

91. In addition, for the first time in seven years the concentration ratio CR10 (the market shares of the 10 biggest retailers in the market) has slightly fallen. The concentration ratio CR10 in 2015 was 82.4 %, which is a moderate decrease if compared with 2016 when CR10 was 82.1 %. The falling trend of the concentration ratio has also been recorded in the top-5-retailers group – CR5 in 2016 was 65.1 whereas in 2015 CR5 amounted to 65.3. Concretely, the top-5-retailers hold a bit less than two thirds of the market whereas the top 10 hold a bit more than the four fifths of the market. The figures

that indicate the slowing down of the retail turnover increase in 2016, taking into account at the same time the rise in the number of outlets and the increasing retail space both indicate the strengthening of competition and subsequent decrease in the retail prices for final consumers.

92. In 2016 the top-10-retailers: Konzum, Lidl, Plodine, Kaufland, Tommy, Spar, Billa, Studenac, KTC and NTL, recorded a compound turnover from the groceries retail worth 27.85 billion Kuna, which is a nominal increase of 2.3 % (or 584 million Kuna) compared with the previous year. The lining up of the leading retailers on the list remained the same as in the year before. However, there have been certain changes in the market shares of the rivals (e.g. the market shares of Konzum and Plodine dropped, whereas NTL, Lidl, Kaufland increased their market shares). As in the previous year the City of Zagreb recorded the highest turnover from retail in 2016 (19 %), high turnover shares have also been recorded in Split-Dalmatia County (13.2 %), Primorje-Gorski-Kotar County (9.1 %), Istria (7 %), Zagreb County (6.4 %), Zadar County (6.2 %) and Osijek-Baranja County (5.1 %). In other words, the City of Zagreb and the above mentioned counties realised two thirds of the aggregate turnover from the retail in Croatia in 2016, whereas only one third has been realised in all the remaining 14 counties. Besides Zagreb, the most important retail markets in Croatia are located in Rijeka, Split and Osijek. In these three towns the market leaders – Plodine, Tommy and Konzum, kept their positions holding somewhat lower market shares than in the previous year, whereas Lidl was the one of the leading retailers whose figures rose most significantly of all.

93. Compared with the previous year the number of retail outlets increased by 2 % or by a total of 72 outlets. There have been 51 new small shops, 16 supermarkets and 4 hypermarkets. The consumers significantly prefer big format shops. The results of the market investigation indicate that 70 % of the turnover was realised in large format stores, it was the supermarkets that realised the turnover of 47 % and the hypermarkets of 23 % of the total retail. This trend has remained unchanged in the recent years. The turnover has risen in all four shop formats, whereas the most significant rise of 5 % has been recorded in small shops that use no shopping baskets with less than a hundred square meters retail space which hold the highest share in the total number of retail outlets. The turnover in supermarkets rose by 3 %, in hypermarkets 2 %, compared with the previous year.

94. Finally, in spite of the fact that hypermarkets and supermarkets had recorded turnover growth in 2015, the year 2016 brought about the rising trend in the convenience stores around the corner that are the consumers' first choice. That said, it must be noted that the net sales space increased in 2016 principally in small shops and supermarkets, whereas there has been a slightly falling trend in the footage of the self-service markets and, even less noticeable, in hypermarkets.