

**Directorate for Financial and Enterprise Affairs
COMPETITION COMMITTEE****Annual Report on Competition Policy Developments in Croatia****-- 2018 --****5-7 June 2019**

This report is submitted by Croatia to the Competition Committee FOR INFORMATION at its forthcoming meeting to be held on 5-7 June 2019.

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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 Act (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.

2. During 2018, there were no changes in the existing legislative framework in the area of competition. However, in the area of its new competence – unfair trading practices in food supply chain – the Agency began fully implementing The Act on prohibition of unfair trading practices in the business-to-business food supply chain (UTP Act). The 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.

3. By virtue of the provision of Article 33 of the UTP Act, the Agency was obliged to harmonize the Statute and other general acts of the Agency with the provisions of that law. The Council, as a decision-making body of the Agency, adopted the text of "Amendments to the CCA Statute" and sent it to the process of adoption by the Croatian Parliament. The Amendments related to the organizational structure and the creation of a new organizational unit of the "Sector for the prohibition of unfair trading practices" and to the widening of the scope of competence of the members of the Council and the Agency's expert staff, for the purpose of implementing the provisions of the UTP Act. The amendments to the Statute were adopted by the Croatian Parliament on 29 June 2018.

1.2. Other relevant measures, including new guidelines

4. During 2018, the CCA continued its leading role in Croatian delegation for negotiation of 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 (ECN + Directive). From May 2017 to April 2018, CCA representatives prepared their positions on the proposals of the Directive, participated in discussions in the working bodies of the Council of the EU and submitted comments on the texts of the Directive. Finally, on 14 January 2019, the Directive was adopted and it entered into force on 4 February 2019. Once the Directive has come into force, Member States have a two-year deadline for its transposition into national legislation.

5. In addition to the above-mentioned directive, during 2018, representatives of the CCA, together with representatives of the Ministry of Agriculture, were actively involved in drafting of the future directive on unfair trading practices in the food supply chain. Directive (EU) 2019/633 of the European Parliament and of the Council on unfair trading practices in business-to-business relationships in the agricultural and food supply chain was adopted on 17 April 2019.

1.3. Government proposals for new legislation

6. The CCA proposed to the Ministry of the Economy, Entrepreneurship and Crafts at the end of 2017 the adoption of the amendments to the Competition Act and drafted the text of the proposed revisions with the purpose of:

- a. defining the status of the CCA as an autonomous and independent legal person performing the activities of a general national regulatory authority in the area of competition in charge of all markets within the scope and in line with the competences defined by the Competition Act. This is necessary on the account of the fact that even though the existing Competition Act implies that the CCA is a national regulatory authority in charge of competition in all markets, it fails to provide an explicit definition of the CCA as a national and general regulatory authority in charge of competition issues on all markets;
- b. enabling the CCA to propose to the Government the adoption of provisions revoking the block exemption from the general ban of the agreements under Article 8 paragraph 1 of the Croatian Competition Act for certain categories of agreements, in case the market situation or market conditions change,
- c. ensuring the termination of the Regulation on block exemption granted to insurance agreements,
- d. corrigendum of three provisions of the existing Croatian Competition Act dealing with concentrations between undertakings (Article 17 paragraph 6, Article 19 paragraph 7 and Article 58 paragraph 1 item 13) with the view to ensuring proper application of the EU competition law where the European Commission decides to refer the assessment of a particular concentration between the undertakings producing effects on trade between the Member States to the CCA (regardless of the fact whether the turnover thresholds at the national level are fulfilled or not).

7. Namely, the current Article 19 paragraph 7 of the Croatian Competition Act reads that “where the Commission decides within the meaning of the Council Regulation (EC) No. 139/2004 not to assess a concentration producing effect on trade between the EU Member States that at the same time meets the conditions under Article 17 of this Act and that the assessment of the concentration concerned should be assigned to the Agency, the parties to the concentration at issue shall notify the proposed concentration to the Agency within 30 days from the date of the receipt of the relevant decision of the Commission.” In other words, the current reading of this provision, despite the fact that the European Commission holds the CCA, a national competition authority, the best-placed authority to carry out the assessment of the concentration concerned, the CCA cannot assess the concentration producing effect on trade between the EU Member States that had been notified to the European Commission within the meaning of the Regulation (EC) No. 139/2004, if the turnover thresholds provided under Article 17 of the Croatian Competition Act are not met.

8. On the other hand, the revisions would enable the CCA to terminate the proceedings that it opened as a national competition authority pursuant to Article 101 or Article 102 of the TFEU. Namely, the existing provision under Article 58 paragraph 1 item 13 of the Croatian Competition Act stipulates, among other things, takes non-infringement decisions within the meaning of the provisions of the Croatian Competition Act or Article 101 or Article 102 of the TFEU. Such a provision contravenes with the EU competition law,

concretely, Article 5 paragraphs 1 and 2 of the Council Regulation (EC) No 1/2003 in the part where it refers to Articles 101 and 102 of the TFEU.

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;

9. In 2018, the CCA solved the total of 687 cases in the area of competition and unfair trading practices.

Table 1. Number of cases solved in 2018

	Competition	Unfair trading practices	Total
Substantive	30	-	30
Other (non-administrative cases)	86 (expert legal opinions and answers to queries) 490 (other)	81	657
Total:	606	81	687

10. One of the main CCA's activities in 2018 was the engagement in the EU assistance project in Montenegro, by winning a Twinning light contract of assistance to Montenegrin Competition Protection Agency. Owing to its experience as the youngest Member state that managed to get invaluable experience in the area concerned, the project proposal worked out the by the Croatian Competition Agency in cooperation with the Central Finance and Contracting Agency and the Ministry of Foreign and European Affairs was selected as the best for the partner county concerned. This project aims at upgrading the administrative capacities of the Montenegrin competition authority through the training of its staff in case handling, particularly involving complex economic analysis, evidence collection procedures, especially during surprise inspections (dawn raids) of the premises. The project is worth EUR 250 000; it started in November 2018 and as planned should be completed by mid-2019. Taking into consideration the assistance the CCA received as a beneficiary itself in its own pre-accession period, this is the first time the CCA has assumed the role of a sole assistance provider in a twinning project.

11. International work of the CCA was also marked by the renewed cooperation with the Kosovo Competition Authority. Namely, upon the proposal of the representatives of the Kosovo Competition Authority the national competition authorities agreed to revive the agreement on cooperation that was signed as early as in 2010. At the meeting in Zagreb, the two presidents signed a new Memorandum of Cooperation whereas the experts of the CCA held presentations about its experience in handling cases and the negotiations of Croatia in the EU accession process with respect to competition policy. Within the meaning of the new agreement two national competition authorities will cooperate in the area of implementation of competition law and policy, exchange experts and cases, organize study visits and experts training, carry out consultations, organize mid- and high-level-meetings and exchange documents and other written material linked with the case practice of both

authorities. Similar agreements on cooperation have already been signed by the CCA with its peers in Austria, Bosnia and Herzegovina, Bulgaria, Montenegro, Hungary, Macedonia, Romania, Serbia and Turkey. It should be noted that one of the Council members of the CCA is a short-term expert for competition policy in the Twinnig Project: Support Kosovo institutions on SAA implementation in Kosovo, carried out jointly by Croatia, Germany and Poland.

12. Against the decisions of the CCA no appeal is allowed but the injured party may bring a claim before the High Administrative Court of the Republic of Croatia. However, in the case of a no-infringement decision or a decision on termination of the proceeding, the complainant or the person enjoying the same procedural rights as the complainant can also take action. It is worth mentioning here that according to the figures published by the EU Justice Scoreboard for the year 2017 the duration of the court proceedings in competition matters (including EU Articles 101 and 102 and excluding national law proceedings) of some 200 days brings Croatia to the second place of speed and efficiency, immediately following the United Kingdom.

13. During 2018 the High Administrative Court of the Republic of Croatia issued three judgments in relation to the decisions of the Agency (confirming the claim), while one claim was withdrawn. There was also one decision by the Constitutional Court confirming the claim of the party and abolishing the judgement of the High Administrative Court and CCA's decision in a 2015 cartel case.

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

Telecom sector – no infringements established

CCA against VIPnet

14. The Croatian Competition Agency (CCA) found that VIPnet did not abuse a dominant position in the access to public telephone network at a fixed location for residential and/or non-residential customers, retail fixed broadband access and Pay television in the territory of the Town of Varaždin and Varaždin County. Based on the initiative of the undertaking Magic Net from Ludbreg that complained that VIPnet, together with its connected undertaking B.net, abused its dominant position by ignoring the principles of cost-oriented pricing and engaging in predatory pricing with the intent of market foreclosure, the CCA carried out a preliminary market investigation in above mentioned relevant markets. In the course of the proceeding the CCA has found that VIPnet does not hold a dominant position in the above mentioned relevant markets and that, consequently, in this particular case the key assumption for abuse has not been fulfilled in the sense of the Competition Act.

Alleged abuse of dominant position

Proceeding against Hrana Tec

15. The complainant PIK Vrbovec stated that in the production and processing of meat it uses the clipping machines made by Poly -clip System GmbH & Co. KG whose agent and authorised distributor for Croatia is the company Hrana Tec. The complainant claims that in September 2017 it ordered and paid for an original spare part for the clipping machine but the authorised repairer Hrana Tec refused to install the part concerned as soon

as it noticed that the clipping machine concerned already contains consumables that had been purchased from a distributor different from Hrana Tec. At the same time, Hrana Tec allegedly warned PIK Vrbovec that if it continues to purchase productive material from any other manufacturer and to install it in Poly-clip System clipping machines, Hrana Tec will refuse to supply it with spare parts and consumables and provide repair services. In addition, the complainant is concerned about the free-of-charge servicing or charging only a flat rate by Hrana Tec to all its customers that buy consumables exceeding a certain value of purchase. This could result in a spill-over of its significant market power to another market. The proceeding will have to answer the question whether the allegations submitted by the complainant constitute abusive practices in the sense of competition rules by Hrana Tec.

Proceeding against Nautički centar Trogir

16. In an initiative submitted to the CCA, the claimant indicated that “Nautički centar Trogir” (marina in the town of Trogir) prohibits him from entering the marina and delivering the goods to buyers/marina customers because of his alleged economic activity on the marina grounds. After collecting the comments from some 40 entities performing various roles on the relevant markets of provision of services of nautical tourism port and provision of services of sale and delivery of nautical equipment, the CCA decided to dismiss the claimant’s initiative. Namely, it has been determined that consumers are not limited to make their supplies only on the grounds of that particular marina. It has also been determined that there are other undertakings, claimant’s competitors, making their deliveries in the said marina based on their contractual relations with the concessionaire. Marina in question, as a concessionaire, is obliged to use the maritime domain in accordance with concession rules (their observance is under the competence of regional authorities). Finally, the CCA determined that there are no indices for initiating the proceedings of establishing the abuse of dominant position.

2.2. Mergers and acquisitions

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

17. In the reporting period, area of merger control was again very dynamic with 16 notified mergers, out of which 9 were closed during that year (all approved in the first phase). Also, one merger notified in 2017 was cleared in 2018 (approved in the first phase). No concentration was declared incompatible with competition rules.

2.2.2. Summary of significant cases.

INA and PPD / Petrokemija

18. In this transaction INA and PPD jointly acquire indirect control (majority interest) over Petrokemija through a special purpose vehicle (SPV) Terra mineral fertiliser company (TMG). Given the aggregate turnover worldwide and the EU dimension the proposed concentration was subject to obligatory notification to the European Commission. The European Commission complied with the request of the participants to the concentration for case referral and transmitted the submission to the Croatian Competition Agency (CCA) as the best placed national competition authority to investigate the matter concerned.

19. In the course of the investigation procedure the CCA found that the transaction involves joint investment of INA and PPD in the recapitalisation of Petrokemija through a SPV – TMG company, in which each of the founders (INA and PPD) holds a 50 per cent share. After the implementation of the proposed transaction TMG will hold a minimum 50 per cent plus one share in Petrokemija, thereby ensuring the notification parties to jointly confer indirect control over Petrokemija. At the same time INA and PPD (through TMG) will not operate in the gas supply market to any big industrial customers – buyers of natural gas in the Republic of Croatia.

20. As acquirers and suppliers of Petrokemija INA and PPD are vertically integrated undertakings that are engaged in several activities in the energy sector. Apart from that, they are important gas suppliers both in the aggregate gas supply retail market and in the gas supply retail market for big industrial customers in the Republic of Croatia. On the other hand, due to its characteristics the mineral fertiliser production market expands the national borders given the fact that there are also manufacturers from other Member States who compete in this market and who buy natural gas from different international suppliers.

21. Petrokemija is the biggest industrial gas buyer in Croatia. At the same time, this undertaking is the only Croatian manufacturer of mineral fertiliser that sells some 30 per cent of the produced volume in Croatia, whereas it exports the rest. There is no other fertiliser manufacturer that would be excluded from the market after the implementation of the concentration concerned.

22. Therefore, in this concrete case the proposed implementation of the vertical concentration internalises the existing relationship between the supplier and the buyer between the participants to the concentration.

23. In a broader sense, the gas market in the Republic of Croatia is liberalised and open and therefore there are no entry barriers. This is confirmed by the Croatian Energy Regulatory Agency (HERA) as the specific regulator in this sector that the CCA closely cooperated with in the course of the procedure in question. According to the data obtained from the HERA there are 54 gas suppliers that have been licensed to carry out the activities in the gas market. The gas supply market is fragmented and dynamic. There are new competitors entering this market and there has been a significant number of buyers who have switched to other suppliers. This indicates that the market is still not mature, however, the effects of developing competition in this market is present.

24. In the narrow segment of the market in gas supply to big industrial buyers that are connected directly to the transmission system and that are substantial gas users from the point of volumes that they purchase, the suppliers of these buyers, taking into account the big purchase volumes that have to be agreed in advance so as to ensure the safety of gas supply to big buyers, in other words, considering the nature of the operation provided by this gas supply segment, must dispose of significant resources and maintain capacities to ensure supply to these buyers. However, neither in this segment of the market there are no significant regulatory or other entry barriers for undertakings that would have the necessary resources and capacities to ensure supply to big industrial buyers.

25. First, when an industrial buyer wants to be supplied with natural gas from a transmission system, it must be connected to the transmission system. The terms and the procedures are stipulated by the Network Code of the Transmission System, establishing the requirements for grid connection, energy approval for connection to the transmission system, minimum technical design and operational requirements for the connection to the system, connection agreement and construction of the grid connection.

26. In addition, the industrial buyer must conclude the Gas Supply Agreement with any gas transmission system operator (TSO) of its choice that has been validly licensed for discharging the gas supply activity. The TSO puts the grid connection into operation after the selected gas supplier has concluded the gas transmission agreement with the TSO.

27. The natural gas supply agreement identifies arrangements, under the market conditions, between the industrial buyer and the gas supplier about the dynamics (depending on the production process), deadlines (monthly, annual, multiannual contract) and necessary supply volumes, so as to enable the gas supplier to define the capacity at the grid connection of the industrial buyer concerned with the TSO. In order to be able to agree upon the capacity in the transmission system it is necessary for the selected gas supplier to register as the balance group leader (BGL) or to be a member of a balance group, in other words, it must conclude an agreement with one of the registered BGLs.

28. Taking everything said above into account it may be concluded that the observed narrow segment market is more concentrated than the overall gas supply market in Croatia. The HERA confirms the presence of a total of 10 competing undertakings in this narrower segment of the market, increased by one more operator in 2017 compared with 2016.

29. The market shares held by INA and PPD in the relevant market – gas supply to big industrial buyers show a falling trend from 2015 to 2017. In 2017 INA and PPD held each an individual market share under 30 per cent. Their joint market share was [50-60] per cent. The analysed data correspond to the data submitted by the HERA. The HERA confirms that there are no formal barriers for other gas suppliers to take over the gas supply to big industrial buyers that are directly connected to the transmission system from the existing suppliers of these buyers.

30. Due to the specific features of the gas supply market the decisive factor for industrial buyers when they choose the gas supplier is not loyalty but the price of the delivered gas. Under the Gas Market Act and the General terms for gas supply the end users in the distribution system may change the gas supplier without any extra charges.

31. The exit of Petrokemija from the market due to the long lasting financial difficulties of this company lead to the withdrawal from the market of this important fertiliser manufacturer and user of natural gas in Croatia, which could finally have adverse effects on consumers due to the likely increase in the price of agricultural products and potential rise in the price of gas attributable to the increase in transportation tariffs that directly affect the final price of gas (as a result of the decrease in the total volumes of gas traded in the market). Therefore, it can be reasonably assumed that the capital injection in Petrokemija would lower the price of products, improve production, shorten the trading and/or distribution and enhance the performance of Petrokemija.

32. In the assessment of possible effects of the implementation of the concentration concerned the CCA took into account the economic analysis of potential effects of the concentration worked out by KPMG. The CCA concluded that the implementation of the concentration will not limit supply, in other words, it will not lead to the risk of vertical restriction in natural gas supply in Croatia. This was also confirmed by the finding of the HERA indicating the presence of other competitors in the market concerned and the absence of any formal barriers for other suppliers to take over the gas supply for big industrial buyers that are directly connected to the transmission system from the existing suppliers of these buyers. There are no indicators that the concentration concerned would limit demand given the fact that in 2017 there was a total of 20 big industrial buyers that are directly connected to the transmission system. The market in gas supply to big industrial

buyers rose in 2017 by 25 per cent whereas the purchase of gas by Petrokemija made some 20 per cent in the total consumption of natural gas in Croatia in 2017.

33. Taking everything into account it can be concluded that by the implementation of the concentration concerned the structure of all relevant markets will remain de facto the same, in other words, by the implementation of the concentration the market position and the market shares of INA and PPD will not change in the gas supply markets in Croatia. They will continue to operate independently as competitors and will be encouraged to supply with gas other industrial buyers as they used to do it before the implementation of the concentration concerned.

34. In the downstream market in fertiliser manufacturing there will also be no structural changes. This due to the fact that Petrokemija has no competitors in fertiliser production in Croatia, meaning that there is no competitor to Petrokemija that would be denied gas supply by INA and PPD. Petrokemija with its products will continue to participate in the international fertiliser production market. INA and PPD replied that they intended to continue the trading with Petrokemija under market conditions and that Petrokemija would continue to publish invitation to tender for the supply of natural gas. All interested third parties – natural gas suppliers could take part in the competitive bidding.

35. No replies to the request for information that was published on the web site of the CCA with respect to the concentration concerned and its possible effects on competition have been received.

36. In adopting its decision, the CCA concluded that the concentration concerned will not have any anticompetitive effects given the fact that its implementation will not create or strengthen a dominant position of the participants to the concentration in the relevant market.

ARH CEE / Studenac

37. CCA found that the concentration will produce effects in the groceries retail market in the territories of Split-Dalmatia County, Dubrovnik-Neretva County, Zadar County, Šibenik-Knin County and Lika-Senj County. Based on the pre-notification the transaction involves the acquisition of direct control over the undertaking Studenac by the undertaking ARH CEE. ARH CEE is a special purpose entity, a part of the EI group under the control of investment funds that, among other activities, provides capital investment services and equity instruments and offering a wide range of venture capital investment in undertakings that are believed to have long-term growth potential. With the target company Studenac already present in the market, ARH CEE as the acquiring company enters the market concerned and there will be no changes in the market structure. In 2017 Studenac held a market share between [0-5] % and [10-20] % depending on the county. Its most important competitors are Konzum, Tommy, Plodine, Lidl and other regional retailers. In the whole territory of Croatia its market share ranges from [0-5] %. The groceries retail market is very dynamic with a raising trend, there are many competing undertakings at the national, regional and local level. Taking into account the market structure, the market power and the market shares of the undertakings participants to the concentration the CCA found that the concentration concerned will not produce any anticompetitive effects since it does not create or strengthen a dominant position in the market.

RWE Hrvatska / i-energija

38. This is a transaction where the acquiring undertaking RWE Hrvatska, through its connected undertaking RWE Energija, was taking over the undertaking i-energija, a special purpose entity founded by Hrvatski telekom (HT), both present in the Croatian energy supply market. The concentration will produce effects in the relevant electricity supply market in the Republic of Croatia. The participants to the concentration are both present in the relevant product and relevant geographic market. In 2017 RWE's held a market share of [5-10] %, whereas HT's market share was [0-5] %. Consequently, the post-merger market share of RWE Hrvatska would be some [5-10] %. The implementation of this concentration will enable RWE Hrvatska to raise the existing RWE's Energija portfolio of electricity end users and offer better service and access to new value-added products and services under better terms. Given the defined structure of the market and the market power and market shares of the participants to the concentration in the relevant market, CCA approved the concentration concerned noting that it will have no anticompetitive effects as it does not create or strengthen a dominant position in the market of its participants.

Triglav INT/Raiffeisen

39. The concentration between the undertakings concerned will produce effects in the pension insurance market. Namely, Raiffeisen MOD is currently the only pension insurance company that ensures payments from the mandatory and voluntary pension fund. Its activities have been regulated by a separate law – the Pension Insurance Companies Act, whereas its operation is under the supervision of the Croatian Financial Services Supervisory Agency (HANFA). In accordance with the data from the notification in question significant changes in the pension insurance market are expected to occur after 2019 when the first generation of the members of the mandatory pension funds, who were born in 1962 or later, and cannot move back to the so called I Pillar, will have the right to early retirement pension. Therefore, there will be more users of the pensions from the mandatory pension insurance in the coming years since more members of the mandatory pension funds will have the right to pension payments from the combined system. The notification also revealed the forecasts that from 2020 there will be more new entrants in the market in question. Potential competitors are presumably going to be the ones already active in the Croatian pension system market. For the members entitled to pensions it would mean more options for selecting a pension insurance company. The Croatian Competition Agency cleared the concentration given the fact that it would not produce anticompetitive effects nor create or strengthen a dominant position in the market of any of the parties to the concentration.

FARUNO / PAN-PEK

40. CCA cleared in the first phase the acquisition of joint control over the undertakings PAN-PEK Zagreb and PAN-PEK Đakovo by the undertakings FARUNO from Luxemburg and Ivan Parać, Zagreb. FARUNO is a part of the group of undertakings controlled by the investment funds of the EI Group that, amongst other things, provides services relating to share capital investments and ownership instruments through venture capital investing in companies with a perspective of tremendous asset value creation, and is entering the relevant markets on which PAN-PEK Zagreb and PAN-PEK Đakovo are active – the bakery production and import of bakery products, the wholesale in bakery products and the retail in bakery products in the territory of the Republic of Croatia. The undertakings PAN-PEK Zagreb and PAN-PEK Đakovo taken together are one of the most important bread producers in Croatia, whereas their assortment includes fresh, frozen and packed

bakery products that are produced in Zagreb and Đakovo and distributed to final consumers in other retail chains as well as in their own specialized store network.

41. The bakery production and the import of bakery products market is fragmented, there are a number of competitors, while the market share of none of them exceeds 15 %. According to the 2016 data available, the highest market share is held by Mlinar d.d., followed by PAN-PEK, while the first five undertakings hold less than 30 % of the market. In this relevant market the share of the domestic production is still a prevailing source of sale, yet, the competitive constraint is present through numerous domestic and foreign producers. The competitive constraint from abroad has been getting stronger since Croatia joined the EU – in 2016 it took a share of 16 % of the total sale of bakery products. Besides, the industrial production of bread and bakery products in Croatia is showing a positive trend and the growth in this industry is expected in the future taken into account a still rather low share of the ready-to-eat and frozen bakery products and the permanent rise in the number of the retail chains. The wholesale and the retail in bakery products both follow the logic of the bakery production and bakery imports market. The permanent expansion of the retail chains ensures the increased availability of bakery products in the same way as competition between the producers themselves does, whereas the increasing demand encourages the development of the industrial bakery production. The specialised retail stores also indicate growth, which has been particularly elaborated by the notifying party as one of the main reasons for the implementation of the proposed concentration. After the assessment analysis of the relevant markets concerned it has been established that there would be no changes in their structure in the post-merger period.

Adris Grupa / Expertus

42. CCA approved the acquisition of the direct control over the undertaking Expertus or 77.78 % of the share capital in the undertaking concerned by the undertaking Adris Grupa. By the implementation of this concentration Adris Grupa acquires also indirect control over the undertakings HUP-ZAGREB, Hoteli Dubrovačka rivijera and Astoria. By taking over the so far leader, Adris Grupa will strengthen its position in the Dubrovnik-Neretva County and enter the City of Zagreb. In the whole territory of the Republic of Croatia by the implementation of this concentration Adris Grupa takes the second position, following the leader in this relevant market – Valamar Riviera.

43. The concentration will in the first place produce effects in the hospitality sector including accommodation and catering in hotels in the territory of the Dubrovnik-Neretva County. Namely, Adris Grupa is active in the Dubrovnik-Neretva County though its connected undertaking Grand Hotel Imperial whereas the undertaking Expertus is active in the same geographic market through its connected undertaking Hoteli Dubrovačka Rivijera. In accordance with the 2016 data, by the implementation of this concentration Adris Grupa will take the third place in the relevant market covering the accommodation and catering in hotels in the Dubrovnik-Neretva County. Besides the market on which this concentration will primary produce effects, it is solely Adris Grupa, through its connected undertaking Maistra, that has been present in the accommodation and catering in hotels, apartments and camping sites business in the territory of Istria County, where Plava Laguna (including Istraturs) holds the lead. On the other hand, through its connected undertaking HUP-ZAGREB, Expertus is the sole undertaking that is present in the accommodation and catering in hotels business in the Zagreb County. In this market Expertus through its connected undertaking HUP-ZAGREB has been holding the lead in terms of available beds and overnight stays. In terms of total turnover data for 2016 in the observed hospitality business market in all accommodation establishments in the Republic of Croatia there have

been present three leading rivals: Valamar Riviera that occupied the first place on the list in 2016, followed by jointly Plava Laguna and Istraturist, and Adris Grupa in the third place.

44. The implementation of this particular concentration proves that the relevant hospitality market at the national level is being further consolidated. The implemented acquisitions of the three leading rivals further strengthen their portfolios outside their original place of establishment to the counties where they use their best strategies to take up even better positions at the national level.

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

45. Besides the activities of the CCA relating to the enforcement of competition rules the CCA is also actively involved in competition advocacy. Most powerful tool in this area are expert opinions that the CCA issues regarding the compliance with competition rules of draft proposals for laws and other legislation, as well as the existing laws and other legal acts, it conducts regulatory impact assessment and gives other comments on related issues raising competition concerns. These opinions are given at the request of the Croatian Parliament, the Government of the Republic of Croatia, central administration authorities, legal persons with public powers and local and regional self-government units. Here below are two examples of such opinions issued during 2018.

46. With the **Draft Road Safety Act**, subject of a query submitted by Croatian Chamber of Economy, the long process of advocacy efforts by the CCA finally got its closure. Namely, through the previous system of “Single minimum calculation elements”, the driving schools were obliged to determine the minimum price of the teaching hour in such a way that the calculation of the price of the teaching hour for a particular vehicle category should not be lower than the prescribed single minimum calculation element. This has prevented competition in a way that driving schools could not provide services at a price that was lower than prescribed. However, under the new Road Safety Act, driving schools are now able to independently develop the price list for the driver training service in the topics of “Traffic Regulations and Safety Rules” and “Vehicle Driving” for a particular category of vehicle. In its reply to the query, CCA stressed that the freedom of an undertaking operating on a particular relevant market to determine the price of its services and / or products on its own, is one of the basic prerequisites for effective market competition in a particular relevant market.

47. **Parking prices at the Airport Rijeka terminal:** In its reply to a received query the CCA stated that the prices for the use of the parking space and the short-stay airport parking (pick-up & drop-off) at Rijeka Airport have been set by Rijeka Airport who owns the land and who defines the prices concerned pursuant to the powers granted to it in line with separate laws. At the same time, following the investigation of the provisions regulating the area concerned, such as the relevant Ordinance, Pricelist, Decision on pursuing economic activities at Rijeka Airport, the CCA concluded that there have been no indices that so regulated prices would be discriminating or in any other way anticompetitive. The provisions consulted by the CCA revealed that they apply equally to all participants under equal conditions and that there have been no indices that the rules within would favour any particular taxi operator or other operator.

4. Resources of competition authorities

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

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

48. Planned resources for carrying out activities within the competence of the Agency in the State Budget for 2018 amounted to 13.423.006 HRK (2.014.559 USD). Execution of expenditures amounted to 99% of the plan. The increase in comparison to the previous year is due to the employment of new staff in order to implement new competency of the CCA (unfair trading practices in food supply chain, please see 1.1 above) and the inclusion of the EU funds necessary for the implementation of the assistance project in Montenegro (please see 2.1 above).

4.1.2. Number of employees (person-years):

- economists - 18
- lawyers -22
- other professionals – 4 (IT and PR)
- support staff - 8
- all staff combined - 52

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

- Enforcement against anticompetitive practices²: 15
- Merger review and enforcement: 5
- Advocacy efforts: 3

4.3. Period covered by the above information: 1 January-31 December 2018

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

49. In 2018, the Agency completed four in-depth sectoral market researches: market research on the market of milk and dairy products, as well as its regular annual market researches on press publishing media, groceries retail market and insurance sector in the Republic of Croatia.

50. Research on **Croatian press publishing market** in 2017 was conducted with the view to defining the market shares of the relevant market participants. The market study involved the following markets: 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 and included a total of 43 newspaper publishers and distributors. The market shares in the relevant markets concerned were defined on the basis of paid circulation – the number of copies sold and revenues realized by the undertakings concerned in the press advertising market, wholesale and retail distribution. **Daily newspapers paid circulation market** recorded 66.1 million copies of general information dailies sold in Croatia in 2017. In comparison with the preceding year

this was a fall by 10 %. **Weeklies paid circulation market** recorded a drop by 15 % in comparison with 2016, similar to **print advertising market** which recorded the total revenue that the publishers made from advertising in the daily papers in the amount of 160 million Kuna or 10 % less than in the previous year. The HH index in this relevant market in 2017 was 1.669 points whereas in 2016 it was 1.663 points, which indicates a moderately concentrated market. In 2017 the total revenue from advertising in weeklies was 24.9 million Kuna. Finally, in the **press distribution market** there has been only one player present (wholesale) at the national level in 2017 – the undertaking Tisak d.d. from Zagreb that experienced a revenue fall compared with the previous year. The total press retail revenue was 351.5 million Kuna, which is, compared with 2016, a 3 % fall. In 2017 most publishers recorded a rise in the retail activities. 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 a greater part of the revenue. Summary in English language is available here:

51. <http://www.aztn.hr/en/24sata-has-the-highest-circulation-revenue-jutarnji-list-the-highest-print-advertising-revenue-whereas-7dnevno-and-medimurje-are-best-sold-weeklies/>

52. In November 2018 the CCA started a **milk sector market study** that involved twelve undertakings engaged in milk processing. The first five on this list (Dukat, Vindija, Belje, Meggle Hrvatska, Zdenka-Mliječni proizvodi) held a combined market share of 88 per cent in the procurement of raw cow milk in Croatia in 2016. In 2017 the combined market share of the first five amounted to 91 per cent. The objective of this market study was to collect information and establish the facts about the dairy market structure including the relationships in the market concerned between the producers of raw milk, milk processors and distributors supplying the end consumers. It is worth mentioning here that in 2017 the Ministry of Agriculture adopted a so called “milk package” – a set of rules defining the raw milk supply chain. With the view to protecting the consumers these rules regulate the relationship between the producer and the buyer and set forth the parameters relating to milk quality at the source, such as protein and milk fat content, the facts that directly affect the farmgate price of raw milk.

53. The market structure regarding the purchase of raw cow milk in Croatia shows that the market is highly concentrated – the first three market leaders (Dukat, Vindija and Belje) held a combined market share of 82 percent in 2017. For the sake of comparison their combined market share in 2016 was 79 per cent. The concentration of this market clearly rises despite some changes in the structural links between the undertakings concerned.

54. There has been an increase in the average farmgate price by HRK 0.16 per litre of raw cow milk in 2017 compared with the previous year. The farmgate price of milk depends on the content of milk fat and protein. Corrections are also introduced regarding the number of microorganisms and somatic cells in milk. There are also additional premiums by milk buyers that give incentives to milk producers who produce larger quantities of milk. For the purpose of the dairy market study the CCA examined the average farmgate prices of cow milk in the EU in 2017 and 2018. The results showed that in August 2017 the average farmgate price of milk was EUR 0.35 or HRK 2.61 per kilogram. Comparing the farmgate prices of milk in December 2018 and December 2017 the CCA draw the conclusion that only in three Member States the farmgate price rose – in Malta, Cyprus and Croatia. This rise was the highest in Croatia and amounted to 4 per cent. In 2017 Slovakia, Hungary, Estonia and Slovenia had a higher farmgate price than Croatia, only in Romania it was lower. On the other hand, in August 2018 lower farmgate prices than in Croatia were

recorded in Spain, Bulgaria, Czech Republic, Estonia, Latvia, Lithuania, Hungary, Poland, Portugal, Romania, Slovenia, Slovakia, whereas other Member States had higher average farmgate prices than Croatia.

55. The contracts between the buyers (processors) and producers of milk (dairy farmers) that have been analysed for the purpose of the dairy market study show that the contracts that were in effect in 2016 and 2017 were concluded for a time period of six months to one year. This is in line with the above-mentioned milk rules that entered into force on 24 March 2017 and that provide for a minimum duration of such contracts.

56. Within its regular groceries market study for 2016 the CCA analysed the agreements and supplementary documents of the five leading groceries chain stores in Croatia. In the part where the agreements between the milk processors and groceries chain stores were inspected the CCA detected certain provisions that would today constitute unfair trading practices within the meaning of the Unfair Trading Practices Act, such as the existence of listing and marketing fees, logistics discounts etc. However, the UTPs Act entered into force on 7 December 2018 while the CCA analysis concerned covered the agreements in effect in 2016 and 2017 when the UTPs Act still was not in effect. In line with its scope of duty the CCA will continue to take these concerns into consideration.

57. Finally, the results of the CCA market survey indicate that there are four milk farmers cooperatives in the territory of the Republic of Croatia carrying out the five-year business plan: Udruga mljekara „Drava-Sava,, from Novo Virje, Poljoprivredna zadruga Uzgojno poslovno obrazovni centar Simentalac iz Kutjeva, PO „Mliječni put Hrvatske“ from Virovitica and Udruga proizvođača mlijeka Međimurja from Čakovec that is made up of 11 family farm holders. Now, with the “milk package” in place, and unlike before, the milk producers are acquainted with the price of milk in advance, before the delivery. On the other hand, the new rules open the possibility for making the deals with the buyers of milk faster and easier because now the milk framers cooperatives negotiate with the buyers, not the individual farmers like it used to be. This should significantly cut the negotiation process short, simplify it and make it more effective. The farmers joined in producers’ cooperatives should be able to negotiate better purchase terms given the fact that they can now collectively offer larger quantities of milk. The CCA also recommends small producers to team up with the main objective to market their products more successfully. Summary in English language is available here: <http://www.aztn.hr/en/croatian-dairy-market-study-for-2018/>

58. CCA’s study of **groceries retail, including food, beverages and sanitary products for households** in Croatia for 2017, showed that the rising trend in grocery retail continues. The market investigation involved a sample of 48 undertakings that in accordance with their turnover represent the most significant participants active in the food retail market. Four undertakings less than in 2016 – Billa d.o.o. and Kvarner Trgovina Punat d.o.o. have been taken over by Spar Hrvatska d.o.o., Trgovine Krk d.o.o., whereas B-Tex d.o.o. and Puljanka d.d. in administration were not engaged in the groceries retail in 2017. On the other hand, one undertaking – Lorenzo d.o.o. from Pag that on 1 July 2017 became a member of Ultragros Group was added to the sample. The 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 specialized stores that sell particular groups of food products, such as bakers’ and butchers’ shops etc. The realized turnover of all the undertakings that were included in the market investigation for 2017 amounted to 35 billion Kuna, which actually means that the groceries retail turnover has risen by 3.2 per cent in comparison with 2016.

There have been 39 undertakings whose turnover has risen, whereas 8 undertakings recorded a decreasing turnover.

59. The 2017 market research shows that there has been one important takeover by a direct competitor – that of the acquisition of Billa by Spar that took over 62 Billa's outlets including the logistics centre in Sveta Helena. The takeovers at the regional level were even livelier. In 2017 a number of Konzum outlets were closed down and taken over by its direct competitors. This is the reason why some local and regional retailers, such as Trgovina Krk, Ribola, Istarski supermarket, indicated a higher nominal increase in their turnover than one of the "Top 10 retailers" K.T.C. This shows that the upward trend that started in the previous report period continued with the "resilience" of smaller retailers that remained sustainable in the competitive environment.

60. In 2017 the top-10-retailers (Konzum, Lidl, Plodine, Kaufland, Spar, Tommy, Studenac, KTC, NTL and Lonia) recorded a compound turnover worth 28.8 billion Kuna, which is a nominal increase of 900 million Kuna or 3.2 % compared with the previous year.

61. Two thirds of the total turnover were realized in the City of Zagreb and six counties. The City of Zagreb as the most important retail market in Croatia had a turnover of a bit less than 6.4 billion Kuna, which was slightly lower than in 2016. The first place was still held by Konzum, albeit with a lower turnover and market share, followed by Spar and Kaufland whose both turnover and market share figures rose in 2017 compared with 2016. After Zagreb, the most important retail markets in Croatia are located in Rijeka, Split and Osijek.

62. In comparison with 2016 the number of retail outlets grew by 2 % and there were 109 outlets more than in 2016. Compared with the previous year, in 2017 there were 185 new self-service markets, three new supermarkets and two new hypermarkets. However, the number of small shops fell sharply – there were 81 fewer small shops in 2017 than in 2016. They also recorded a downward trend in their turnover. That said, it must be noted that the total net sales space increased in 2017 in all shop format categories by 1.2 %, whereas the rise in the footage was most significant in self-service markets (5 %). The highest share is still held by supermarkets (45 %), hypermarkets (25 %) and self-service markets (22 %) whereas small shops held only 8 % of the total. The consumers still significantly prefer big format shops. The results of the market investigation indicate that 70 % of the turnover was realized in large format stores, it was the supermarkets that realized the turnover of 47 % and the hypermarkets of 23 % in the total retail.

63. The indicators revealing the rise in retail turnover in 2017, at the same time, considering the rise in the number of outlets and the sales space, point to the strengthening of competition and, indirectly, the fall in retail prices to the benefit of the final consumers. Summary in English language is available here:

64. <http://www.aztn.hr/en/cca-market-investigation-for-2017-rising-trend-in-grocery-retail-continues/>

65. Finally, the market study of **insurance sector** in the Republic of Croatia in 2017 was carried out. 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.

66. In 2017 there were 20 insurance companies active in the Croatian insurance market. Two insurance companies with their place of establishment in another EU Member State –

Sava osiguranje d.d. – Subsidiary Croatia and Adriatic Slovenica d.d. – Subsidiary Zagreb were also present in the Croatian insurance market through their subsidiaries. There were two insurance companies less than in 2016 – BNP Paribas Cardiff Osiguranje (that was merged with Croatia osiguranje) and Erste osiguranje VIG (that was merged with its parent company Wiener osiguranje). The insurance market whose total gross written premium amounted to HRK 9.2 billion in 2017 rose by 4.5 per cent in comparison with HRK 8.8 billion in 2016. Two thirds of the insurance market are held by non-life insurance whereas life insurance market takes up the remaining one third. The rise in the report period was based on the rise of the non-life insurance market, particularly the automobile insurance market – third party liability insurance rose by 10 per cent, health insurance by 19.2 per cent and loan protection insurance by 27.6 per cent. The highest gross written premium in 2017 was realized by Croatia osiguranje that held almost a 29 per cent market share, which made this company the number one insurance company in the Croatian market indicating a rising trend of 7.4 per cent compared with 2016 (Croatia osiguranje d.d. alone). In accordance with the concentration ratio as the measure of the percentage market share held by the five largest firms within the industry concerned with respect to individual insurers amounted to 64.1 in 2017, which means that CR rose slightly in comparison with the CR in 2016 when it was 61.6. On the other hand, when insurers are regarded as connected undertakings (constituting one economic entity) the concentration ratio in 2017 was 75.9, whereas in 2016 it was 76.6. Based on the market concentration data the insurance market in Croatia in 2017 was relatively well structured indicating moderate market concentration whereas individually there has been a slightly rising trend in the concentration ratio in comparison with the previous year.

67. In 2017 there were 15 insurance companies active in **life insurance**, including the two above mentioned insurers that operated through their subsidiaries. There has been a moderate rising trend in life insurance amounting to 2.3 per cent and the premium in 2017 amounted to almost HRK 3 billion. The increase in the total life insurance premium was exclusively influenced by the rise in branch 23 – Life insurance and pension funds – where the policy holder bears the investment risk whereas the premiums in other types of insurance in this group went down. Uniqua osiguranje continued the three-year negative trend linked to the significant fall of the life insurance premium – it decreased by 14 percent relative to 2016. The most prominent players in the segment of life insurance were Croatia osiguranje and Allianz who had equal market shares in 2017. The highest gross written premium in the life insurance market was realized by Croatia osiguranje that for the first time after 2009 was again the strongest insurer in the life insurance segment and swapped with Allianz. The highest nominal and percentage rate of 18.4 per cent was however recorded by Generali osiguranje.

68. In the segment of **non-life insurance** in 2017 there were 19 insurance companies present on the market, including the two above-mentioned subsidiaries. The gross written premium in the segment of non-life insurance in 2017 amounted to HRK 6.2 billion, which means that it went up by 6.2 per cent compared with 2016 when it amounted to HRK 5.8 billion. This growth was principally based on the growth in car insurance – comprehensive insurance, health insurance and loan protection insurance. A constant decrease in the premium in branch 10 – Insurance against civil liability in respect of the use of motor vehicles – stopped for the first time after 2013. The premium in this segment rose slightly by 0.3 per cent (note that the 2016 Market Study reported the fall of premium in this segment in 2015 by 2.8 per cent). The market leader in the non-life insurance segment remains Croatia osiguranje.

69. The **motor car insurance market** – including both the third-party motor insurance (compulsory third party insurance) and the comprehensive automobile insurance as the most important types of insurance, took a share of 32.4 per cent in the total gross written premium in the insurance market in 2017, which almost equals the 2016 figures when the total gross written premium was 32.5 per cent. The gross written premium in the third-party motor insurance in 2017 was HRK 1.94 billion indicating a slightly positive trend of 0.2 per cent after three years of the negative trend. The gross written premium in the comprehensive automobile insurance in 2017 rose compared with 2016 by 11.4 per cent. This positive trend is linked to the raising number of the motor vehicles first registered – 123,592 in total in 2017. Yet, the rise in the gross written premium of 11.4 per cent does not correlate with the positive trend of 3 per cent rise in the number of the first registered motor vehicles. There were 12 insurers active in the car insurance market in 2017. Eight of them recorded a rise in the premium, most of all both members of the Agram Group (Euroherc osiguranje and Jadransko osiguranje).

70. Summary in English language is available here: <http://www.aztn.hr/en/croatian-insurance-market-in-2017-is-more-concentrated-than-in-2016>