

Unclassified

English - Or. English

21 May 2021

Directorate for Financial and Enterprise Affairs
COMPETITION COMMITTEE

Annual Report on Competition Policy Developments in Slovenia

-- 2020 --

This report is submitted by Slovenia to the Competition Committee FOR INFORMATION.

JT03476834

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Slovenia

Background and Executive Summary

1. This annual report describes recent development in competition law and policy in Slovenia and summarizes the competition enforcement activities of the Slovenian Competition Protection Agency (hereinafter referred to as “CPA”) for the year 2020.
2. CPA is an authority with the powers of enforcing competition rules. It was established in 2013 by reorganization of the former Slovenian Competition Protection Office, which was a part of the Ministry of the Economy. The CPA is now organized as an independent administrative authority, which is responsible for the enforcement of antitrust, and merger control rules in Slovenia. If an anti-competitive practice also affects trade between EU member states, the CPA will apply articles 101 and 102 of the Treaty on the Functioning of the European Union (TFEU).
3. The long-term objective of the CPA is the promotion of effective competition in all sectors of national economy. This general objective is pursued primarily by decision-making activities and competition advocacy. In this respect, CPA has been dealing with 12 antitrust cases related to anticompetitive practices, including agreements and abuses of dominant positions. In 2020 CPA has issued 36 decisions; two issued decisions were related to anticompetitive agreements and concerted practices. Furthermore, in 2020, CPA dealt with several notified concentrations and issued 34 decisions.
4. Concerning the proposed or adopted changes to competition law and policies, further significant amendments to Slovenian antitrust and merger control proceedings are foreseen within the new version of Prevention of Restriction of Competition Act (Competition Act). The most important novelties being considered are: (i) the CPA will be allowed to impose a fine within the administrative antitrust proceeding and will no longer need to carry out a separate misdemeanor proceeding and (ii) simplified merger control proceeding will be available and concentrations with limited effect on the Slovenian market will no longer require a full notification in Slovenia. However, the simplified merger control is not yet agreed to be included in the new Competition Act
5. CPA, in parallel with its legal competences, also performed activities aiming to raising competition culture of all market participants and therefore competition advocacy represents important role in the policy of the Agency. CPA has the objective of establishing closer ties with other public authorities as also representatives of Chamber of Commerce and Industry and various branch associations. In the framework of various consultations, the competences and areas of action of CPA were introduced, in order to better understand the scope of competition law and policy.
6. In the field of exchange of experiences at the international level, participation to several conferences and roundtables in EU competition authorities also enabled the staff of CPA to share and exchange experience in competition field.
7. Concerning the authority’s annual budget over the past few years, analysis shows that budget is gradually increasing; considering also the number of FTEs, the lion's share of the budget is still used for labor costs, leaving less room for more demanding market analysis projects and international cooperation.

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

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

8. There were no amendments to the Slovenian competition law in 2020.

1.2. Other relevant measures, including new guidelines

9. There were no other measures or guidelines adopted in 2020.

1.3. Government proposals for new legislation

10. The competent Ministry of Economic Development and Technology is contemplating significant amendments to Slovenian antitrust and merger control proceedings within the new version of Prevention of Restriction of Competition Act (Competition Act). Some important novelties are being considered, alongside other changes, namely: (i) the CPA will be allowed to impose a fine within the administrative antitrust proceeding and will no longer need to carry out a separate misdemeanor proceeding and (ii) simplified merger control proceeding will be available and concentrations with limited effect on the Slovenian market will no longer require a full notification in Slovenia. However, regarding the simplified merger control it is not yet clear if the proposal shall be kept in the new Competition Act.

11. Slovenia is one of the few EU member states, which legislated a two-phase proceeding for competition law infringements. The CPA must first establish an infringement in an administrative proceeding and only impose a fine later in a misdemeanor proceeding. Both proceedings are subject to separate appeals in front of different appellate courts.

12. This division enables the legal entities involved to benefit from all criminal procedural law guarantees and discuss separately the lawfulness of the alleged anti-competitive conduct and imposed fine. Proceedings are thereby prolonged and, in most cases, a significant amount of time passes between the CPA's infringement and fining decisions.

13. The renewed competition law shall introduce a new so-called 'administrative sanctioning proceeding', which combines both phases, while at the same time will allow the implicated legal entities to benefit fully from all criminal procedural law guarantees.

14. Filing for merger control clearance in Slovenia takes time, regardless of the merger's effects, as the current wording of the Competition Act provides no simplified notification form. Undertakings must submit a full notification form, regardless of the merger's effects. The draft of the new Competition Act should introduce a simplified merger control procedure for concentrations, which do not have or have a minimal impact on effective competition in the relevant markets.

15. For now, it is still unclear when the proposed amendments will be placed in the National Assembly's legislative proceeding and when the draft amendment will come into effect.

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 authority

Activities of competition authority in administrative proceedings

16. Slovenian Competition Protection Agency (CPA) is the sole authority responsible for the enforcement of competition rules. It is organized as an independent public body led by a director and a five-member council.

17. The rules in Competition act on substantive matters are modeled on EC competition rules and apply to all sectors and all undertakings.

18. In the field of anticompetitive agreements and concerted practices, the statutory provision dealing with anticompetitive agreements is article 6 of the Competition Act. Slovenian competition law prohibits anticompetitive agreements, decisions and concerted practices, which have as their object or effect the prevention, restriction or distortion of competition on the territory of the Republic of Slovenia. Such agreements are null and void.

19. Application of 'object' and 'effect' concepts is in line with the practice developed by the European Commission and the EU courts. Slovenian competition law covers horizontal as well as vertical restrictive agreements. Its main wording corresponds to article 101 TFEU and lists the same examples of restrictive practices as article 101 TFEU such as price fixing, fixing of production, sales quotas and market sharing.

20. Efficiency enhancing agreements fall outside the scope of article 6(1) of the Competition Act. Where in an individual case a restriction of competition within the meaning of article 6(1) of the Competition Act has been proven, article 6(3) can be invoked as a defense. Article 6(3) of the Competition Act provides similar four cumulative conditions as article 101(3) TFEU in order to satisfy the exemption. The burden of proof rests on the undertaking invoking the benefit of the exception rule.

21. In addition, according to Article 7 of the Competition Act certain types of agreements of minor importance are not prohibited (the de minimis exemption). The thresholds are 10% (for horizontal agreements and mixed horizontal-vertical agreements) and 15% (for vertical agreements) of the aggregate market share, in combination with other undertakings in the group, on any of the relevant markets on the territory of the Republic of Slovenia. If competition on a relevant market is restricted by the cumulative effects of parallel or similar agreements between other undertakings, the mentioned market share thresholds are lowered to 5%. However, the article defines certain anticompetitive agreements for which the de minimis exemption does not apply even though the thresholds were not exceeded. These are 'hard-core' practices such as price fixing, limiting of production or sales or market sharing in cases of horizontal agreements and fixing of retail prices or granting territorial protection in vertical agreement cases.

22. Article 9 of Competition act, modeled on article 102 TFEU, prohibits the abuse of a dominant position on the market by one or more undertakings in the territory of the Republic of Slovenia, or in a substantial part of it. Article 9(4) of the Competition Act also lists the same examples of infringements as article 102(2) TFEU.

23. Dominance is defined as the ability of an undertaking to act, to a significant degree, independently of competitors, clients or consumers. In addition there is a legal presumption that the undertaking is dominant if its share of the Slovenian market exceeds the 40 per

cent threshold and that undertakings are jointly dominant if their share on the Slovenian market exceeds 60 per cent. Determining dominance is assessed with regard not only the market share, CPA takes into consideration also financing options, legal or actual entry barriers, access to suppliers or the market and existing or potential competition.

24. Similar to the EU competition law, the abuse of a dominant position as such is not defined by the Competition Act. The Competition Act generally prohibits the abuse of a dominant position and lists four typical examples of abusive behavior, which show that the concept of abuse covers exploitative as well as exclusionary practices. The list of forms of abuse in article 9 of the Competition Act is not exhaustive. Therefore, the CPA is not excluded from dealing with other types of abusive practices.

25. As regards administrative proceedings, in 2020 CPA handled 12 cases related to anticompetitive agreements and concerted practices, tackling primarily with cases that were remanded back from the Court to CPA for reconsideration. Over 2020, CPA issued two decisions related to anticompetitive agreements and concerted practices. The cases concerned a vertical restrictive agreement on the market for oral care products and commitments in the alleged abuse of dominant position for electronic data exchange services (See detailed description in 2.1.2).

26. Moreover, there were still a few opened cases that the Administrative Court or the Supreme Court returned to the CPA for reconsideration and re-evaluation.

Activities of competition authority in minor offences proceedings

27. The CPA is empowered not only to establish the infringement of the competition rules, but also to impose fines. In line with the existing Slovenian regulations, the CPA conducts two types of procedures: (i) an administrative procedure in which infringements of the Competition Act and articles 101 or 102 of TFEU are assessed and brought to an end and (ii) a minor offence procedure where fines are levied. For the minor offences procedure the provisions of the Minor Offences Act also apply. It is worth noting that Slovenia has a dual proceeding system. In the first phase, CPA establishes the infringement in the administrative procedure and only after this decision is final, CPA can initiate the second, a minor offence procedure and set the fine. For several years, CPA is seeking to amend the current legislation and consequently optimize the proceedings.

28. The CPA has powers to impose fines of up to 10 per cent of the infringing companies' worldwide turnover in minor offences proceedings. When setting a fine, the CPA takes into account the general provisions of the Minor Offences Act and, thus, all circumstances that may reduce or increase the sanction (mitigating and aggravating circumstances).

29. In the case of a breach of articles 6 or 9 of the Competition Act or articles 101 or 102 TFEU, CPA can impose a minor offence fine on a legal entity, entrepreneur or an individual who performs economic activity of up to 10 per cent of the annual turnover of the undertaking in the preceding business year. A fine of between €5,000 and €30,000 can also be imposed on the responsible person of a legal entity or the responsible person of an entrepreneur.

30. In 2020, CPA imposed the following fines in minor offence proceedings:

Table 1.

The infringer	Type of infringement	Fines imposed (in EUR)		Total amount of fines imposed (in EUR)
		Legal persons	Responsible persons	
INPOS d.o.o. G4 Group d.o.o.	Late notification and prior enforcement of a concentration	25.003	10.000	35.003
		23.062	10.000	33.062
TOTAL		48.065	20.000	68.065

Summary of activities of Courts

31. Under the present Competition Act, there is no appeal in the administration procedure against the decisions and orders issued by the CPA. However, the parties and other participants to the procedure can file a lawsuit against the CPA's decisions (and orders) with the Administrative Court of the Republic of Slovenia and the revision against the judgment to the Supreme Court. A request for judicial protection has to be filed within 30 days from the issue of the decision or the order.

32. Pursuant to currently valid legislation, if the CPA determines that fines should be imposed to parties subject to a final decision in the administrative procedure, it can do so in a separate minor offence procedure. The parties can then file a case in the District Court of Ljubljana, seeking to have the fine overturned or reduced with the possibility of an appeal to the High Court and file extraordinary legal remedies with the Supreme Court.

33. In 2020, within the court review, the Administrative Court of the Republic of Slovenia decided on four cases, in which the legality of acts issued by the CPA was examined; the cases referred to the administrative procedure. Within the decisions, in all four judgments the Court upheld the application and remanded the cases back to the Agency for reconsideration.

34. Within the court review in 2020, the courts also decided two cases in minor offence procedure related to fines. According to the judgement, the courts upheld the application for judicial protection in respect of the decision relating to the imposed fines. In so doing, the decisions of the CPA concerning the offence were suspended.

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

Vertical restrictive agreement - GLAXOSMITHKLINE

35. On 17 December 2020 the CPA issued a decision finding that GLAXOSMITHKLINE (GSK) had infringed Articles 6 of ZPOmK-1 (Slovenian Competition Act) and 101 TFEU by enforcing from 7. 7. 2003 a single and continuous infringement on the market for the distribution of oral care products in the territory of the Republic of Slovenia. In the context of sales of GSK oral care products, a series of agreements and concerted practices aimed at the absolute protection of territory and customer groups and liable to affect trade between Member States of the European Union.

36. GSK's oral care products have a strong market position in the territory of the Republic of Slovenia, having a market share of more than 30 %. Prices on the territory of the Republic of Slovenia also exceeded prices on other EU markets by 100 % and the

market was subject to parallel imports, which GSK sought to prevent by controlling the distribution.

37. GSK products for oral care are distributed on the territory of the Republic of Slovenia through independent authorized distributors responsible for the territory of the Republic of Slovenia and for a specific sales channel (generally a separate channel of commerce and pharmacy).

38. Under the contract, those distributors were non-exclusive distributors, that is to say, to be admissible (when the distributor actively markets and offers products to customers) and passive sales (when customers autonomously approach the distributor to sell products to them) to all potential buyers. In practice, however, distribution took place in an exclusive manner (active sales to only one distributor within an exclusively designated sale channel and territory) and there was no competition between authorized distributors in the case of active sales. However, GSK carried out exclusive distribution in an arbitrary and non-transparent manner and thus did not in fact constitute exclusive distribution capable of complying with the competition rules.

39. In order for a particular territory or customer group to be considered to be exclusively granted, the supplier must agree to sell its products only to one exclusively specific distributor. It may not reserve such a particular territory or customer group to several suppliers, retain such possibilities or reserve the possibility to supply the supplier exclusively with the territory or group of customers at the same time.

40. However, GSK did not only restrict active sales by authorized distributors, but also, contrary to the competition rules, prevented and restricted passive sales, controlled their exports and sales/promotional activities and ensured that they followed GSK's strategy when selling or distributing products.

41. GSK also used various methods to limit unauthorized distribution by other customers from the EU territories and prevented, restricted parallel imports (e.g. by using legal remedies to prevent parallel imports, to control parallel imports, to control the origin of the products, to prevent parallel imports and to grant special advantages to purchasers of distributors to cease parallel imports).

42. GSK also controlled the distribution of authorized distributors and prevented parallel imports in line with its strategy of maintaining the price level recommended by GSK SLO, which was also up to 100 % higher than prices in other EU territories.

43. It follows from competition law that certain types of collusion between undertakings are so harmful to competition that it may be considered that there is no need to ascertain their effects (infringement by object). This follows from the fact that certain forms of collusion between undertakings can, by their very nature, be regarded as detrimental to the proper functioning of normal competitive market.

44. Consequently, certain types of conduct, such as those restricting parallel imports or creating barriers on national markets, must, in principle, be regarded as having negative consequences, in particular on the price, quantity and quality of the goods and services, that it is not necessary, for the purposes of the application of Article 101(1) TFEU, to prove their actual effects on the market.

45. Agreements restricting active and passive sales allow companies to charge for products prices that are protected from effective competition by artificially maintaining separate national markets within the internal market.

46. Thus, agreements which have as their object the subdivision of national markets according to national borders or which make it difficult to penetrate national markets must,

in principle, be regarded as agreements which have as their object the restriction of competition. The fact that contractual provisions have not been strictly enforced is irrelevant, since the very existence of those provisions creates a visual and psychological background contributing to the partitioning of markets. In that regard, since the purpose of competition law is not only to protect the interests of competitors or consumers, but also to protect the structure of the market and thus competition as such, the existence of an anti-competitive object of an agreement does not depend on whether final consumers are deprived of the benefits of effective competition in terms of supply and price.

47. An agreement which does not expressly contain an export ban or does not provide absolute territorial protection to a distributor, also restricts competition if it is intended to do so or makes parallel imports more difficult by treating them less favorably than those carried out by official importers, or restricts the buyer's freedom to benefit from goods acquired in accordance with its own economic interests.

48. In this respect, even though they do not constitute an absolute ban on off-territory sales, such as the forwarding of letters recommending or prohibiting exports where exports are allowed only on the basis of the producer's consent, where the producer has to be contacted prior to export via the internet, where the distributor is obliged to pass on to the producer enquiries by buyers outside the contract territory, where discounts are reduced or additional costs are charged if the sales concern a non-contractual territory, or where the producer threatens to terminate or terminate the contract, the supplier also constitutes absolute territorial protection.

49. GSK SLO did not implement those practices, for example, in order to penetrate the market, but to control distribution and, therefore, the recommended price level. In the event of market penetration, depending on the legal and economic context, in the case of products with a low market share (less than 30 %), a restriction on active sales is permissible and, exceptionally, passive sales, since the conditions of Article 101(3) TFEU are deemed to be fulfilled under Regulation 330/2010, which provides for block exemptions for vertical agreements. The latter (same as Article 6 Of Slovenian Competition Act) provides that there is no infringement of competition law if the agreements contribute to improving the production or distribution of goods or promote technical and economic development; and in doing so, consumers are guaranteed a fair share of the resulting benefits;

50. GSK SLO has a leading position in the territory of the Republic of Slovenia of more than 30 % and, through its actions, aimed at the absolute protection of the territory and thus the restriction of competition. The same applies to the minor exception in Article 7 Of Slovenian Competition Act) (maximum 15 % market share). However, those exceptions are not applicable at all in the present case, since GSK SLO's conduct also relates to the prohibition of passive sales, which, in exceptional cases, always constitutes an infringement of the rules on the protection of competition by object.

51. The Agency thus concluded that GSK SLO's conduct, having regard to the legal and economic context (the market situation of the products and the purpose of the conduct), constituted an infringement of the competition rules by object, that is to say, the absolute protection of territory and customer groups, in breach of Article 101(1) TFEU and Article 6(1) of the Slovenian Competition Act).

Commitments in the alleged abuse of dominant position of Panteon GROUP

52. By its decision, the CPA accepted a proposal for commitments proposed by Panteon GROUP in the infringement procedure for an alleged abuse of a dominant position (hereinafter: PANTEON). By accepting the commitments, the procedure for establishing an infringement of Article 9 of Slovenian Competition Act and Article 102 of the TFEU,

which was carried out by the Agency on 7 10. 2016 brought against Panteon without a definitive assessment of the infringement of the aforementioned provisions.

53. The acceptance of the commitments eliminates the situation where there is a likelihood of infringement of the provisions of Article 9 of Slovenian Competition Act and Article 102 TFEU, namely that Panteon is allegedly abusing its dominant position on the relevant market for electronic data exchange services in the territory of the Republic of Slovenia and in a substantial part of the internal market of the European Union, which could affect trade between the Member States of the European Union by refusing to provide or impermissibly conditioning a competing provider of electronic data exchange services (EDI) to the relevant electronic data exchange service provider.

54. Panteon has committed to treat in a non-discriminatory manner any EDI service provider that does not have an interconnection and wishes to establish such a connection with Panteon. When setting up an interconnection, Panteon will require only those objectively necessary data that are strictly necessary for the implementation of the interconnection in the implementation of the electronic data exchange. The company will send the same questionnaire to all EDI service providers who send an initiative to set up an interconnection in writing, in order to determine the company's personnel, organizational and financial structure, the nature and scope of the services, the type and complexity of the connection sought and the characteristics of the network used by the provider.

55. Panteon will only be able to refuse to establish an interconnection if there are reasonable grounds for doing so, based on objective circumstances, such as a threat to the security of the Panteon network, the obvious unreliability of the EDI service provider or the network with which it wishes to establish a connection, the provision of false or incomplete information and the like. Panteon must give reasons for its refusal to establish an interconnection in writing and inform the EDI service provider requesting the interconnection and the Agency at the latest within one month of receipt of the questionnaire reply.

56. Panteon will provide the Agency once a year with an annual compliance report for the duration of the commitment decision, which will also include information on all requests received, approved and rejected for the implementation of the interconnection. The company will also report to the Agency on an on-going basis on any rejected request to implement an interconnection. This notification will be sent by the company to the rejected initiator of the interconnection and to the Agency.

57. The commitments shall be valid for a period of 3 years from the date of the decision.

58. The Agency may, on application or of its own motion, revoke a commitment decision and continue the procedure where there is a material change in the factual circumstances on which the decision is based, where a party fails to comply with the commitments or where the decision is based on incomplete, incorrect or misleading information provided by the party.

2.2. Mergers and acquisitions

59. The authority over merger review is solely within the CPA. As a rule, mergers are reviewed solely on competition principles.

60. Merger control is regulated by the Prevention of the Restriction of Competition Act (Competition Act), which implemented Council Regulation (EC) No. 139/2004 (EC merger Regulation).

61. The concept of concentration, as provided in article 10 of the Competition Act, shows that a concentration is deemed to arise where a change of control on a lasting basis results from the merger of two or more previously independent undertakings or parts of undertakings; the acquisition of direct or indirect control of the whole or parts of one or more other undertakings; or the creation of a joint venture by two or more independent undertakings, performing on a lasting basis all the functions of an autonomous economic entity.

62. A concentration must be notified if (i) the combined aggregate annual turnover of all the companies concerned, including the affiliated companies, exceeded €35 million before tax in the Slovenian market in the preceding financial year; and (ii) the annual turnover of the target, including the affiliated companies, exceeded €1 million before tax in the Slovenian market in the preceding financial year; or (iii) in cases of joint ventures, the annual turnover of at least two companies concerned, including affiliated companies, exceeded €1 million before tax in the Slovenian market in the preceding financial year.

63. Regardless of the matched thresholds, the concentration does not need to be notified if it is subject to review of the EC Commission under the Regulation 139/2004/EC.

64. In 2020, CPA dealt with 43 notified concentrations and issued 34 decisions, all of them dealing with concentrations on the national level, which had no international implications. Apart from 26 approved concentrations, one concentration was cleared with conditions and seven cases were not subject to competition law¹. In 2020, there are a few decisions worth mentioning, particularly a decision on a concentration cleared with corrective measures (Concentration on the market of the market for children's equipment) as also acquisition of 100 % share in the thermal springs Terme Olimia by the Republic of Slovenia.

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

Table 2.

Decisions on Concentrations	2013	2014	2015	2016	2017	2018	2019	2020
Cleared	18	22	15	28	22	26	26	26
Cleared with conditions	-	-	4	-	-	1	1	1
Prohibited	1	-	-	-	-	1	-	-
Prohibition on implementation	-	-	-	-	-	-	-	-
Not falling within the scope of Competition Act	1	6	3	4	6	4	5	7
TOTAL	18	25	25	23	34	26	32	34

¹ Every potential concentration has to be notified if the thresholds from Article 42 of Competition Act are met. After examination, CPA can issue various decisions, i.e. a proposed concentration can be cleared, cleared with conditions, prohibited or, in case both - economic and legal conditions are not met - CPA issues a decision that the concentration is not falling within the scope of Competition Act.

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

65. While the CPA's core activity focuses on making decisions related to infringements of the provisions of Competition Act, it is also important to develop and raise awareness of the competitive environment of the general public. Competition culture and an understanding of the public benefit of competition is the backbone of a market economy. To this end, the CPA shall also seek to raise awareness among the institutional and business environment and consumers that the positive effects of competition are properly informed.

66. From this perspective, competition advocacy is an important tool in the promotion of competition principles and market methods. Successful advocacy may contribute to a higher quality of regulation or to accelerate deregulation processes in situations where new market conditions do not lead to increased competitiveness of the companies.

67. The tools to be used by the Agency shall in particular be a regular communication to the public via publications on the website and through other media, the publication of annual reports on the Agency's activities and the organization of workshops, seminars and conferences devoted to competition protection. Competition awareness has a particularly important role to play in the legislative process.

68. In 2020 CPA has, in the framework of inter-ministerial coordination, actively followed government proposals for new legislation. In 2020, the Agency participated in the preparation of the new Competition Act. This participation was in particular in the preparation of substantive changes to the provisions, which refer to the urgent need to introduce a so-called 'single procedure', which would increase the efficiency of the Agency's operations.

69. One of successful activities of CPA is also legal protection in public procurement procedures. In 2020, the CPA made several requests for proper protection in public procurement procedures as an advocate of public interest. A number of key elements are set out below.

70. Within the procedure for the award of a public contract for the servicing, maintenance and repair of official vehicles, the Prison Administration of the Republic of Slovenia (PA, the body within the Ministry of Justice), has published on the public procurement portal as the contracting authority a public contract for the servicing, maintenance and repair of company cars.

71. When examining the tender documents, the CPA concluded that PA as the contracting authority, in the context of the selection criteria relating to the tenderer's commercial and technical capacity, placed the requirement that the economic operator involved in the performance of the contract should be an authorized repairer for individual vehicles.

72. CPA issued an opinion that PA as the contracting authority acted contrary to the public interest and infringed the principle of ensuring competition between tenderers and the principle of economy, efficiency and effectiveness. Consequently, in the procedure for the award of the public contract in question, the CPA submitted a request for a legal protection of the public interest in accordance with the relevant provisions of *Legal Protection in Public Procurement Procedures Act*.

73. The National Review Commission for Reviewing Public Procurement Award Procedures (DKOM) has fully upheld the CPA's audit request and decided to cancel the public procurement procedure in question in its entirety.

74. The competition culture activity of CPA encompasses various activities. In the field of exchange of experiences on the international level, CPA participated at various events. Participation to several conferences and roundtables in EU competition authorities also enabled the staff of CPA to share and exchange experience in competition field.

75. CPA has the objective of establishing closer ties with other public authorities as also representatives of Chamber of Commerce and Industry and various branch associations. In the framework of various consultations, the competences and areas of action of CPA were introduced, in order to better understand the scope of competition law and policy.

76. Among the priorities, the CPA will continue to prioritize the most serious infringements of restrictive agreements and abuse of a dominant position, paying particular attention to raising awareness among the public and market participants about competition policy, and will further strengthen awareness-raising activities on the opportunities offered by the leniency program. The CPA also intends to pursue the introduction of a single procedure, which remains to be one of the prime objectives.

4. Resources of the Slovenian Competition Protection Agency

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

4.1.1. Annual budget of Slovenian Competition Protection Agency in 2020

Table 3.

		Change over previous year
Approved budget in EUR	1.623.320	93.477
Approved budget in USD*	1.991.976	273.150

Note: *exchange rate Bank of Slovenia – ECB reference rates from 31 December 2020

Resources of CPA- detailed analysis

77. According to the provisions of Article 13a of the competition act, the Government shall grant approval regarding the Agency's program of work and the financial plan for the next year. If the Government does not grant approval by 15 December, the financial plan for the previous year shall apply pending approval.

78. In the first step, the CPA's annual budget is negotiated with the competent ministry as part of the CPA's working program. When approved, the annual budget can in principle be publicly available.

79. CPA does not generate its own income and depends totally on the budgetary resources. According to the existing legislation, the fees or fines imposed on undertakings are part of the income of the general budget.

80. Detailed analysis of the authority's annual budget in the past few year's shows that the budget is gradually increasing; considering also the number of FTEs it is evident that the lion's share of budget is used for labor costs, leaving less room for more demanding market analysis projects and international cooperation. This development is mostly due to general budgetary and employment limitations and long lasting negotiations for the increased annual budget and increased employment rates with the competent ministry.

Table 4.

BUDGET - CPA	2015	2016	2017	2018	2019	2020
Labor costs (salaries)	867.324	914.168	889.200	943.723	1.145.000	1.266.000
Material costs	228.758	220.705	234.278	279.048	375.043	337.320
Market analysis	-	-	-	-	-	-
Investment assets (equipment)	4.769	8.447	15.954	22.967	9.800	20.000
Budget spent on salaries (%)	78,8	80,0	78	75,8	74,8	78
TOTAL - €	1.100.850	1.143.320	1.139.432	1.245.740	1.529.843	1.623.320
TOTAL - US \$	1.228.659	1.321.907	1.311.030	1.426.372	1.718.626	1.991.976

4.1.2. Number of employees (person-years):

Table 5.

	2015	2016	2017	2018	2019	2020
FTEs employed	27	24	24	24	27	28

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

Table 6.

		Change over previous year
Lawyers	12	+ 1
Economists	11	-
Other professionals	3	-
Support staff	2	-
All staff combined	28	+ 1

Note: Period covered by the above information: 2020

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

5.1. Sector inquiry on the book market

81. CPA conducted a survey of the book market (literature) due to several reports that indicated alleged cartel collusion between publishers, abuse of a dominant position and authoritative restrictions on the granting of subsidies by public institutions to publishers.

82. In the research, CPA found that there are many publishers in the market, but that there are two larger ones (Mladinska knjiga group and Učila International), which dominate the market mainly due to the advantage in vertical connectivity, as they own chains of physical bookstores. In order to get closer to the customers, other publishers have to conclude an agreement on representation in physical bookstores with these two bookstore networks. Most publishers also have online sales, which is generally not enough to succeed in the market. According to smaller publishers, an independent bookstore network would therefore be very welcome.

83. In the field of publishing, the most important publishing houses are Mladinska knjiga group, followed by Beletrina and Učila International. Libraries believe that none of the publishers has a dominant position, which would result in the ousting or restriction of other publishers. However, larger publishers have the advantage of being in contact with libraries more often, as their sales representatives visit them more often and more often present novelties to the book market. Most libraries have concluded turnkey contracts, with which they agree with an individual publisher (most often Beletrina) on the purchase of certain material according to the catalogue in advance. However, libraries add that the agreement is non-binding, that both the agreed value and the chosen type of material are informative, that the contract does not have to be fully realized, there are no penalties and all publishers can propose such contract.

84. Libraries see the Biblos web portal, managed by Beletrina, as a bigger problem. Biblos is the only e-book rental portal in Slovenia and was set up with the help of the Ministry of culture (MC). The MC allocates funds to libraries for the purchase of library materials, with libraries obliged to allocate part of the funds for the purchase of e-readings. Almost half of this amount, intended for the purchase of e-material, is used by libraries to pay the usage fee for the Biblos portal, and at the same time they buy most of the e-material or licenses from it. Thus, most of the public funds go to the one and only provider - the Beletrina. Libraries state that they would like more choice when spending money on e-material, but no alternative provider is in sight. The establishment and operation of an alternative portal is thus left to an uncertain private initiative.

85. CPA also reviewed some of Slovenian Book Agency's (SBA) public tenders for co-financing publishers. SBA is a body governed by public law established by the Government of the Republic of Slovenia (<https://www.jakrs.si/en/>). Some SMA's public tenders are not in a favour of the development of competition in the book market. Publicly announced results show that the funds from particular public tender are received by a closed number of publishers with equal financing in the entire period 2015-2019, which means that the level of competition in this segment is quite limited. The largest individual recipient is the Beletrina publishing house, and the largest affiliated company is the Mladinska knjiga group. The tender conditions are designed in such a way that only publishing houses with the most references can apply, which can only be met by the largest publishing houses. An expert commission according to quantified criteria awards the rating points. The results of the selected recipients show the same classification of recipients as in the previous tender and almost identical amount of allocated funds by individual years. As the largest publishers are permanent recipients of funds, they thus obtain additional references while smaller publishing houses, without adequate co-financing or assistance, find it much more difficult to achieve references only with their own funds.

86. Finally, we should mention the composition of the SBA Council, in which one of the members is the director of the Beletrina publishing house. CPA believes that such cooperation between SBA and one of the largest recipients of public funds may raise concerns about the transparent and balanced allocation of public funds and may also have a negative impact on the state of competition in the market.

87. CPA will continue to monitor the issues raised and, if necessary, act in accordance with its powers.