

Unclassified**English - Or. English****20 November 2018****DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS
COMPETITION COMMITTEE****Global Forum on Competition****INVESTIGATIVE POWER IN PRACTICE - Breakout Session 2: Requests for
Information – Limits and Effectiveness - Contribution from Croatia****- Session IV -****30 November 2018**

This contribution is submitted by Croatia under Session IV of the Global Forum on Competition to be held on 29-30 November 2018.
More documentation related to this discussion can be found at: oe.cd/invpw.

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JT03439939

Investigative Powers in Practice

Breakout Session 2 – Requests for Information: Limits and Effectiveness

- Contribution from Croatia –

1. This contribution describes relevant elements of request for information procedure applied in the practice of the Croatian Competition Agency (further: CCA).
2. The CCA is empowered to.
 - Request, in writing, from the parties to the proceedings or other legal or natural persons, professional associations or economic interest groups or associations of undertakings, consumers associations, public administration authorities and local regional self-government units to submit all necessary information in writing, or to make oral statements in respect of all relevant data and documentation;
 - Request, in writing, from the parties to the proceedings to ensure direct inspection of all business premises, all immovable and movable assets, business books, data bases and other documentation;
 - Request, in writing, from the parties to the proceedings to carry out other activities which the Agency finds necessary in order to establish the facts of the case.
3. The written requests sent by the CCA shall contain the legal basis, the subject and the purpose of the request, the time limit for its implementation and the penalty clause in case the request in question should be disobeyed by the parties to the proceedings or other legal or natural persons.
4. Where a party to the proceedings or any legal or natural person fail to act in compliance with the request of the CCA, the Agency shall in the assessment of the facts of the case take into account the significance of non-compliance with its request and shall carry out the proceedings establishing the infringement of the provisions of the Competition Act and it shall by means of a conclusion initiate a proceeding relating to establishing the grounds for the imposition of fines, it shall communicate a Statement of Objections and a notice of hearing to the party concerned, after which it shall by means of a decision establish whether an infringement of Competition Act has been committed and if so, impose a fine provided for the infringement concerned in compliance with Competition Act. Against this decision no appeal is allowed but one may bring action by filing a complaint for an administrative dispute at the High Administrative Court of the Republic of Croatia.
5. A fine not exceeding 1 % of the total turnover in the last year for which financial statements have been completed shall be imposed on an undertaking party to the proceedings where it fails to act in compliance with the request of the CCA. On an undertaking who is not a party to the proceedings a fine in the amount ranging from HRK 10,000 to 100,000 (approx. EUR 1,345 to 13,455) shall be imposed.

6. Where the data and documentation are covered with the obligation of secrecy, the undertakings and other legal and natural persons who submit these data and documentation to the Agency shall in their writing identify information that would be considered confidential and provide necessary argumentation. They also shall submit to the Agency a copy of business documentation which does not contain business secrets. In case where the undertaking or a legal or natural person only indicates the data which it finds to be covered by the obligation of business secrecy and fails to provide a consolidated version of the text and/or business documentation containing no business secrets, the CCA shall send the reminder to the person/s concerned to submit the documentation concerned freed of business secrets. If they do not act in compliance with the reminder of the CCA, it shall be assumed that the writing and/or business documentation concerned does not contain data which are covered by the obligation of business secrecy.