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**Market Studies and other Market Analysis Tools for Competition Authorities – Note by
Slovenia**

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1. Introduction

1. The following contribution presents the experience of the Slovenian Competition Protection Agency (CPA) in conducting market studies and market investigations. It describes the legal framework, methodology and outcomes, focusing particularly on the role of market studies and investigations in identifying market inefficiencies and shaping enforcement and policy actions.

2. The CPA conducts sector inquiries or inquiries into specific types of agreements, which are a type of market studies or market investigations. The sector inquiry (inquiry) is usually more formal, thorough, and targeted at detecting competition law infringements or structural market problems. Inquiries are of critical importance for ensuring effective competition, because it is not always possible to determine which practices are problematic and, as such, restrict competition. However, based on various indicators, such as price rigidity or failure of new competitors to enter the market, and other circumstances, it can be concluded that the market is not functioning as it should. In such cases, inquiry is the appropriate tool to provide a more detailed insight into the sector and its specificities or into the business relationships that are established in the market.

3. Conducting inquiries is a demanding and extensive task, so the decision on which sector or types of agreements to examine depends primarily on the restrictiveness of a particular sector or certain (business) relationships. The CPA's priorities are usually reflected in its investigations.

4. The CPA conducts two to three sector inquiries annually¹. Because the CPA is also the designated enforcement authority for unfair trading practices (UTP) in food supply chain at least one inquiry per year is targeted at detecting possible existence of UTPs in specific sector (such as meat processing industry, fresh fruits and vegetables market, agricultural cooperatives, etc.).

5. The duration of these inquiries ranges from six to twelve months, depending on the sector's complexity and the volume of information to be analysed. The primary objective is to identify market barriers and reasons for inefficient market functioning. Inquiries therefore serve as a preparatory phase to identify issues that may require further enforcement actions or regulatory interventions.

2. When and how is the inquiry conducted?

6. The Prevention of the Restriction of Competition Act² (PRCA) provides the legal basis for conducting inquiries. Where price rigidity or other circumstances indicate the likelihood of restriction or distortion of competition in the territory of the Republic of Slovenia, the CPA may conduct an investigation of an individual sector or certain types of agreements in several sectors³.

¹ <https://www.varstvo-konkurence.si/aktivnosti-agencije/raziskave/>

² Official Gazette, n. 130/22 and 12/24.

³ PRCA, Art. 51.

7. Circumstances that suggest market dysfunction include price increases, market fragmentation, limited entry of new competitors, consumer immobility, limited choice, and sector stagnation. These circumstances generally indicate the likelihood of restricted or distorted competition. In order for effective competition to be (re)established, markets should be dynamic and innovative. The inquiry therefore seeks to identify the reasons for which competition is restricted, with the ultimate goal of eliminating them and thus (re)establishing effective competition.

8. The inquiry begins with a decision issued by the CPA, which contains its reasons, goals and the scope of the inquiry. The CPA then starts collecting information by addressing specific undertakings with requests for information (requests). Requests are the CPA's main investigative tools for carrying out inquiries in accordance with the PRCA. Requests can take form of either *simple request* or of *decision*. Decision is usually used to request information when undertakings are unwilling to cooperate with the CPA. In the course of conducting an inquiry, the CPA has the authority to exercise all the powers of the investigation, including the option of conducting an inspection or interviews. However, the CPA has so far never used these powers for purpose of conducting an inquiry.

9. In requests, be it in form of simple request or of a decision,⁴ the CPA must state *legal basis* for collecting information. However, it is not sufficient simply to list the relevant legal provisions, but the CPA must also describe the circumstances that indicate the likelihood of restriction or distortion of competition in the territory of the Republic of Slovenia. *The purpose of the request* or the purpose for collecting information is for the CPA to discover the reasons why the market is not functioning as it should, i.e. why certain circumstances have arisen that indicate a restriction of competition. *Definition of the requested information* or how the requested information relates to both the general functioning of the sector (for example, how much turnover companies generate by providing certain services, what are the typical contracts they conclude within the framework of their activity, what are the typical products they offer on the market, how they set the prices of individual services, through which sales channels products are sold, etc.) as well as to more specific relationships within the sector, **in order to provide a comprehensive understanding of the sector's structure and dynamics**. *The time-limit within which the information is to be provided* is determined primarily according to the scope of the requested information and may be extended upon request. The difference between the simple request and the decision is in the *warning of the administrative sanction* that may be imposed on the undertaking. When issuing simple request, the CPA can only impose administrative sanction on the undertaking for submitting incorrect or misleading information, whereas in the case of issuing the formal request the CPA can impose administrative sanction on the undertaking for submitting incorrect, incomplete or misleading information or for failing to submit information within the specified time-limit.

10. In order to conduct a comprehensive investigation into a specific market, the CPA prepares requests for information that are characterised by their appropriateness and targeted content. In this manner, it is necessary to consider an appropriate amount of information suitable for the relevant analysis. At the same time, it is imperative to avoid placing an undue burden on undertakings by requesting an unnecessarily large amount of information from them.

11. The decision regarding specific sector of the inquiry is determined by a number of factors, including policy priorities, the extent to which the market is closed or characterised by restrictive practices, media reports on distortions regarding competition or the possible existence of UTPs, and specific complaints received. For example, in 2023 the CPA

⁴ PRCA, Art. 52.

decided to conduct an inquiry⁵ into increased food prices. At the start of 2022, there was a rapid increase in food prices, which contributed 2.9 percentage points to annual inflation according to the Statistical Office of the Republic of Slovenia⁶. There have been reported instances of coordinated high-price increases in the food market, the implementation of uniform pricing across different retailers for certain products, and disruptions in supply resulting from unilateral adjustments to contractual terms that impact pricing. Following a thorough analysis, the CPA was unable to determine that the comparable pricing of the products in question was due to restrictive practices or other conduct that could be deemed as in violation of competition law by any of the companies present within the market. However, the CPA did detect possible existence of UTPs. Following further investigation, it initiated two infringement proceedings⁷ against two retailers.

3. Report on the results of the inquiry

12. Information is analysed using standard competition assessment tools, including concentration ratios, barriers to entry, buyer-supplier relationships, and the degree of vertical integration. The final report on the results of the inquiry outlines market characteristics, identifies structural issues, and may include recommendations to improve market efficiency or competition.

13. In the context of information analysis, the CPA encounters significant challenges primarily because of the differing quality and format of the information provided. Frequently the information provided is also inadequate in relation to the request submitted, or the undertakings do not respond to the request at all. If the information proves to be insufficient for the purposes of analysis, further requests are issued.

14. Depending on the circumstances of each inquiry, the CPA then decides whether to publish the report⁸ on the results of the inquiry without confidential information and invite interested third parties to submit their comments. Despite the discretion of the CPA to publish the report on the results of the inquiry, it is expected that the CPA will publish them, as any comments from interested parties certainly contribute to a more objective report. The CPA is under no obligation to consider third-party comments or to respond to them, however it may choose to supplement, correct or improve its report in accordance with them, or provide an explanation in the final report as to why it did not consider them.

4. Use of information obtained in inquiry

15. The CPA has the power to use the information obtained in the course of conducting inquiry in procedures under the provisions of the PRCA⁹. The purpose of the sector

⁵ <https://www.varstvo-konkurence.si/informacije/novica/agencija-je-izvedla-raziskavo-cenovnih-razmer-na-trgu-izbranih-zivilskih-proizvodov/>

⁶ <https://www.stat.si/StatWeb/en/News/Index/11029>

⁷ <https://www.varstvo-konkurence.si/informacije/novica/agencija-je-17-10-2024-proti-podjetju-spar-slovenija-doo-avedla-postopek-ugotavljanja-krsitve-61f-in-61g-clena-zakona-o-kmetijstvu/>
<https://www.varstvo-konkurence.si/informacije/novica/agencija-je-16-12-2024-proti-podjetju-lidl-slovenija-doo-kd-avedla-postopek-ugotavljanja-krsitve-61f-in-61g-clena-zakona-o-kmetijstvu/>

⁸ PRCA, Art. 51.

⁹ PRCA, Art. 51.

inquiries is not merely to obtain information about the functioning of a sector, but to find reasons for its "non-functioning". Should the information obtained indicate a likelihood of violation of the provisions prohibiting restrictive agreements or abuse of a dominant position, the CPA will initiate proceedings against individual undertakings by a decision. However, should the causes of the market's non-functioning also lie in inadequate legislation, the CPA may, in accordance with Article 144 of the PRCA, send the relevant authorities an opinion on the necessary measures to eliminate or prevent the restriction of competition.

16. So far, sector inquiries have not resulted in the initiation of enforcement proceedings concerning suspected anti-competitive behaviour. It is not common practice for the CPA to initiate proceedings directly based on information from an inquiry. However, the CPA has had several cases where the publication of the inquiry report has encouraged certain parties or consumers to report potential restrictive practices. For instance, the CPA received several reports from members of the public following the publication of the 2018 inquiry¹⁰ into the alleged imposition of warranty conditions obliging car owners to carry out maintenance work on their vehicles only at authorised repairers. Furthermore, after the results of the inquiry were published, public contractors revised their procurement documentation, meaning that bidders no longer had to submit proof of being authorised repairers.

17. In some cases, other procedures or regulatory actions may be initiated following an inquiry. For instance, the Slovenian government frequently uses the results of CPA's two inquiries¹¹ into the fuel market to justify regulation and deregulation of the fuel market in Slovenia. This goes to show that inquiries can also have other types of consequences, in addition to enforcement action.

18. On the other hand, information from sector inquiries, aimed at detecting possible existence of UTPs, are the CPA's main source for further investigation. For example, this year the CPA conducted a sector inquiry into agricultural cooperatives, focusing on the business relationships between cooperatives and their suppliers. The inquiry revealed certain contractual imbalances and provided the basis for initiation of two infringements proceedings¹² regarding UTPs against two cooperatives so far.

19. The publication of reports and public consultation therefore enhances transparency and contributes to well-informed policy decisions. Sector inquiries consequently play a significant part in shaping competition policy and addressing systemic market issues.

¹⁰ https://www.varstvo-konkurence.si/fileadmin/varstvo-konkurence.si/pageuploads/Raziskave/Porocilo_o_raziskavi_trga_servisov_motornih_vozil_nezaupna.pdf

¹¹ https://www.varstvo-konkurence.si/fileadmin/varstvo-konkurence.si/pageuploads/Raziskave/Porocilo_o_raziskavi_trga_pogonskih_goriv_-_nezaupna_AVK_2017.pdf

https://www.varstvo-konkurence.si/fileadmin/varstvo-konkurence.si/pageuploads/Raziskave/Porocilo_o_sektorski_raziskavi_Pogonska_goriva_II_2021_-_nezaupna.pdf

¹² <https://www.varstvo-konkurence.si/informacije/novica/agencija-je-22-9-2025-proti-kz-medvode-zoo-ovedla-postopek-ugotavljanja-krsitve-61f-in-61g-clena-zakona-o-kmetijstvu/>

<https://www.varstvo-konkurence.si/informacije/novica/agencija-je-22-9-2025-proti-kz-sevnica-zoo-ovedla-postopek-ugotavljanja-krsitve-61f-in-61g-clena-zakona-o-kmetijstvu/>

5. Conclusion

1. Sector inquiries are an essential tool for the CPA to address competition issues in the Slovenian market. These inquiries enable to identify structural barriers, enforce competition law, and recommend policy improvements. By publishing reports and engaging with stakeholders, the CPA promotes transparency and advocacy.