

Summary Annual Report of the Croatian Competition Agency for 2016

In compliance with its legal obligation the Croatian Competition Agency (CCA) reports annually to the Croatian Parliament. The Annual report for 2016 outlines the CCA activities in the previous year and informs the political scene, the economic operators and all professional stakeholders about the operation of the CCA, ensuring the transparency of its work and awareness raising about competition culture in the Republic of Croatia. Here are the highlights that marked the work of the CCA in 2016.

Pursuant to the Competition Act (OG 79/2009 and 80/2013) the **CCA is a legal person with public authority which autonomously and independently performs the activities in the scope of its competence under the Competition Act**, and ancillary provisions thereof: the Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty, OJ L 1, 04.01.2003, relating to the implementation of Articles 101 and 102 of the Treaty on the Functioning of the European Union, OJ C 115, 09.05.2008, and the Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings (the EC Merger Regulation), OJ L 24, 29.01.2004.

Internal organization and the operation of the CCA are set in the CCA Statute that was also approved by the Croatian Parliament.

The CCA is run and managed by the Competition Council consisting of 5 members. The Competition Council **collectively decides** in all competition matters whereas the president of the Competition Council represents the CCA and is responsible for the legality of its decisions. The Competition Council adopts its decisions at its sessions, with the majority of votes, where **no member of the Council can abstain from voting**. Decisions can be made only if the president or the vice-president of the Council and at least two other members of the Council are present at the session.

The president and the four members of the Competition Council are all appointed for a five-year term of office and also relieved from duty by the Croatian Parliament upon the proposal of the Government of the Republic of Croatia. The conditions for the appointment, the term of office of the members of the Competition Council, for relieving of the president and the members of the Competition Council and the scope of competence of the Competition Council and the process of decision making are regulated by the Competition Act.

The CCA was established pursuant to the decision of the Croatian Parliament on 20 September 1995 as an independent legal person in charge of competition activities. The CCA became operational in 1997. Today, twenty years later, we witness that the legislator and the founder – Croatian Parliament, back then, anticipated the importance of the role the CCA would assume in the internal market by the Croatian accession to the EU in the

implementation of the Treaty on the Functioning of the European Union, the pillar of the economic and political stability in the EU.

The scope of the CCA within the meaning of the Competition Act covers the following:

- **establishment of prohibited agreements between undertakings** and imposing commitments needed for elimination of anti-competitive effects,
- **establishment of abuse of a dominant position of undertakings** and prohibition of any behaviour leading to further abuse and imposing commitments for elimination of anti-competitive effects, and
- **assessment of compatibility of concentrations between undertakings.**

The CCA carries *ex post* proceedings covering anticompetitive behaviour of undertakings in all the sectors and markets regardless of the fact whether there is a specific regulator in the market concerned or not. It must be noted that specific operators operate under the specific laws exclusively *ex ante* in the markets concerned. In other words, the CCA is in charge of infringement proceedings against all undertakings that are active on these markets, where anticompetitive behaviour has been established, including the markets where there are specific regulators and in spite of the existence of the sector specific regulation. This means that the CCA applies competition rules in practically countless relevant markets to all economic entities that are considered “undertakings” within the meaning of competition law.

Thus, undertakings mean companies, sole traders, tradesmen and craftsmen and other legal and natural persons who are engaged in a production and/or trade in goods and/or provision of services and thereby participate in economic activity. The Competition Act also applies to state authorities and local and regional self-government units where they directly or indirectly participate in the market and all other natural or legal persons, such as associations, sports associations, institutions, copyright and related rights holders and similar who are active in the market.

In other words, the Competition Act applies to practically all entities that directly or indirectly participate in economic activity, regardless of the fact if it is only a one-off activity, regardless of the intent or effect to make profit.

Where the CCA establishes a prohibited agreement between undertakings, abuse of a dominant position of an undertaking/s or a prohibited concentration between undertakings the CCA sets and imposes fines on undertakings that have committed an infringement of competition rules pursuant to the provisions of the Competition Act and the Regulation on the method of setting fines.

Besides the activities of the CCA relating to the enforcement of competition rules the CCA is also actively involved in **competition advocacy**. Concretely, the CCA issues expert opinions regarding the compliance with competition rules of draft proposals for laws and other

legislation, as well as the existing laws and other legal acts, conducts regulatory impact assessment and other comments on related issues raising competition concerns.

Within its primary activities in the area of competition in 2016 the CCA resolved 641 cases. On 31 December 2016 the CCA had a total of 19 open cases – pending proceedings in which the CCA has not yet taken a decision. **This enforcement record was realized by 44 workers in 2016.**

Based on the decisions on established infringements of competition rules **in 2016 the CCA imposed fines in the total amount of HR KUNA 1.592 million.** Fines for the infringements of competition rules are in Croatia direct revenue of the State budget.

Payments relating to the fines imposed by the CCA should be made as soon as the decision of the CCA becomes final where no claim has been filed by the party at the High Administrative Court of the Republic of Croatia, or as soon as the judicial decision has become enforceable.

Besides the amount of fine itself the payments also include the interest charges calculated from the day of the receipt by the party of the decision of the CCA to the day on which the payment is actually made. Therefore, if the undertaking wishes to avoid any risk of interest charges, it can pay the fine before the decision of the court becomes enforceable.

Should an undertaking fail to pay the imposed fine within the prescribed deadline, the CCA informs thereof the local Revenue office of the tax authorities, with the objective of enforced collection of claims.

However, it must be noted that sanctioning is not the purpose and the objective of the work of the CCA. The infringement proceedings are carried out with the purpose of eliminating the irregularities in the market whereas the method of imposing and calculating the fines is always taking into consideration various factors and circumstances and bears in mind the deterrent effect of the fine. In the sense of competition rules, when imposing the fine the case handler on a case-by-case basis decides about the level of the fine according to the facts of the particular case, keeping in view the gravity, effect and the duration of the infringement, the market power of the undertaking in question, special features of the market, all aggravating and mitigating facts of the case. When it reports about its decisions and sanctioning the CCA always points out the deterrent effect of the fine and stresses the general and specific deterrence effect of the fine, sending a signal to everyone that a competition infringement does not pay.

Yet, in 2016 the work of the CCA was extensively marked by its endeavours to remove the barriers and eliminate the weaknesses of the market and facilitate its functioning to the benefit of the consumers, undertakings and the economy as a whole. In other words, in the report year the **CCA was acting proactive in competition advocacy** – it promoted competition law and policy, i.e. its benefits for the consumers and undertakings. This

advocacy activity of the CCA always goes hand in hand with its enforcement activity in creating the competition culture among the undertakings, consumers, public administration authorities and the general public in Croatia.

Within its deterrence policy the CCA promotes competition through its opinions on laws and other activities preventing anticompetitive practices regarding the compliance of laws and other pieces of legislation in force in the Republic of Croatia with the mandatory rule of law in the area of competition.

Concretely, under the Croatian Competition Act the CCA issues opinions on laws and other legal acts which may have effects on competition as well as expert opinions at the request of the Croatian Parliament, the Government of the Republic of Croatia, central administration authorities, public authorities in compliance with separate rules and local and regional self-government units, regarding the compliance with competition rules of draft proposals for laws and other legislation, as well as the existing laws and other legal acts and other related issues raising competition concerns. The CCA also issues its opinions, observations and comments following the queries made by public institutions, local administration units and undertakings. In 2016 more than a 100 opinions and observations have been issued.

Competition advocacy activities are a permanent process. The most effective in 2016 were the opinions and recommendations issued by the CCA in the previous years, particularly with respect to the existing pieces of legislation that had to be brought in compliance with competition rules. Taken as an example, after many years of promoting competition in the *provision of driving school services and the provision of taxi drivers' services*, in 2016 the CCA could witness the start of the activities by the public administration aimed at changing the rules regulating the area concerned. In the same manner, the *market investigation carried out by the CCA in the car insurance sector in 2016* spotted some significant changes in the insurance for motor vehicles which was criticised by the CCA in the previous years for its restrictions. The regulatory changes that have subsequently been introduced in the area concerned, brought about significant and measurable benefits for the consumers.

Thus, following the requests received by public institutions, local administration authorities and undertakings, in 2016 the CCA carried out legal assessment of a number of provisions in force and adopted recommendations on how to bring them in compliance with competition rules. These opinions and observations covered a number of markets and sectors, such as *waste management, electricity market, public procurement in fixed line network services, provision of tax counselling services, provision of scheduled transport services for students, public procurement in the provision of travel agencies' services, provision of shelter for abandoned animals* etc., and reverberated powerfully in the public.

In 2016, the capacities of the CCA were largely engaged in the drafting two legislative proposals - the proposed draft of the **Act on actions for damages for Infringements of Competition Law** and the proposed draft **Act on the prohibition of unfair trading practices**

in the business-to-business food supply chain, both of which were sent to public consultation in late 2016.

The Ministry of the Economy, Entrepreneurship and Crafts, as a sponsor of the law, empowered the CCA and its experts to lead the work group responsible for the drafting of the proposed **draft Act on actions for damages for infringements of competition law** that transposes the Directive 2014/104/EU of the European Parliament and of the Council of 26 November 2014 on certain rules governing actions for damages under national law for infringements of the competition law provisions of the Member States and of the European Union into the Croatian national law.

In December 2016 the CCA hosted an international conference on the Damages Directive i.e. the proposed Croatian Damages Act. The conference provided for the insight into the legal solutions used in the transposition of the Damages Directive by other national laws but also opened a number of legal issues and tried to foresee the challenges related to the application of the Damages Directive in the future. About a hundred lawyers, judges, corporate lawyers and professors participated in the **international conference “Transposition of the Damages Directive – What are the expectations?” held in Zagreb on 5 December 2016.**

The changes imposed by the Damages Directive are significant, as it is designed to use national courts to help victims of anticompetitive conduct and cartel behaviour obtain damages for losses suffered. The Damages Directive, which entered into force on 25 December 2014 after more than a decade of debate and negotiation, promotes a less fragmented standard for private antitrust damages actions across all Member States.

The proposed draft act followed the Damages Directive in twenty articles but at the same time had to be adjusted to the Croatian Civil Obligations Act and the Civil Procedure Act. The compensation for damages would be decided in first instance by the Croatian commercial courts that generally rule in the compensation for damages procedures in other related areas.

In practice this would mean that the actions for damages may be filed by any natural or legal person that has suffered harm on the account of the infringement of competition rules but also by any citizen - consumer or competitor in the market in which competition has been distorted, or a legal person that believes it has been paying a higher price of goods or services or works due to the infringement of competition rules. In other words, the undertakings that have been involved in the infringement of competition provisions may face the risk of being sued for damages. The harm would be properly quantified in the claims for damages whereas the courts will decide on the amount of compensation. The new provisions would ensure the deterrent effect on undertakings and send a clear message that the violation of competition does not pay.

The Croatian Damages Act was adopted by the Croatian Parliament in June 2017. It regulates the right to full compensation for damages caused by an infringement of competition law, business secrecy, disclosure of evidence, limitation periods, collective redress mechanisms, the passing-on of overcharges, joint and several liability, passing-on defence, indirect purchasers, effect of national decisions, the calculation of damages, particularly the interest, actions for damages by claimants from different levels in the supply chain, quantification of harm, consensual dispute resolution etc.

The Damages Act would contribute to the uniform application of the proceedings involving actions for damages for infringements of competition law. It would also contribute to effective competition by enabling the public enforcement (establishment of the infringement and imposition of fines by the competition authority) and the private enforcement (compensation for damages caused by the infringement) to interact.

As regards the proposed **draft Act on the prohibition of unfair trading practices in the business-to-business food supply chain** it is noteworthy to mention here that the vice-president of the Competition Council was directly involved in its creation as an expert in the field concerned, someone who understands the distribution of power between big and small undertakings in their relationship with traders and the imbalance and asymmetry in their negotiating power. Given the fact that the subject is closely related to the existing jurisdiction of the CCA, whereas the practice of a number of Member States showed that competition authorities enforce the laws regulating the unfair trading practices, the draft proposal of the Act on the prohibition of unfair trading practices in the business-to-business food supply chain empowers the Croatian Competition Agency for the implementation of these rules. The proposed law will soon be placed before the Croatian Parliament.

The Croatian Competition Agency closed the year 2016 with a project that is an important part of its competition advocacy activities under the Competition Law – **the Guide for contracting authorities in detecting and tipping-off bid-rigging cartels in public procurement**. In accordance with the statistical data on public procurement in Croatia the contracting authorities realize transactions that account for some 15 % of GDP in public procurement procedures. Given the high GDP share it is even more important that procurement officers detect and reduce the risk of bid-rigging cartels. In order to detect and report about the bid-rigging cartels it is necessary to train all the participants in the public procurement procedure about the suspicious forms, behaviours and patterns of bid-rigging agreements. Only the trained participants will be able to detect unsound behaviour and the signs that the undertakings who infringe competition rules leave behind in the tendering procedure. Here the public administration officers as well as the undertakings involved play a very important role in detecting and sanctioning the risks linked to bid-rigging cartels in public procurement because they help the competent authorities to eliminate cartels and optimize the use of the tax payer's funds effectively. The CCA Guide is a clear set of questions and answers for contracting authorities about the possible suspicious signs that

may point at a bid-rigging cartel or collusive tendering. Some of the infringements are illustrated by a number of examples whereas the contracting authorities are given guidelines in reducing the risks of bid-rigging in public procurement.

The year of 2016 was a big step forward for the CCA but also for Croatia in the area of **international cooperation**. The CCA received an invitation from the OECD to join its Competition Committee. The Croatian Ministry of Foreign and European Affairs supported the CCA as a candidate participant in the Competition Committee based on its long-time active cooperation and its activities in the area of competition. The success is even greater taking into account that Croatia is not yet the OECD member. Its wish to become a member of the OECD has been recently confirmed by Andrej Plenković, the prime minister.

Thus, the member of the Competition Council, Ljiljana Pavlic, participated in October 2016 for the first time in the regular meeting of the Committee that is held biannually, once parallel with the OECD Global Forum. The representative from Croatia presented the work of the CCA, which was welcomed by other participants.

In 2016 the CCA participated also in the public consultation held by the European Commission in the form of an EU Survey until mid-February 2016 regarding the text which is in the meantime the **Proposal for a Directive of the European Parliament and of the Council to empower the competition authorities of the Member States to be more effective enforcers** and to ensure the proper functioning of the internal market. The initiative of the European Commission invited the general public and stakeholders to share their experience and provide feedback on potential EU legislative actions to further strengthen the enforcement and sanctioning tools of national competition authorities. The public consultation invited a broad range of stakeholders (undertakings, SMEs, associations of undertakings, public authorities, bar associations, judges, consumer associations etc.) to provide feedback on potential improvements to ensure that all national competition authorities have the right tools to detect and sanction violations of EU competition rules; to ensure national competition authorities have effective leniency programmes that encourage companies to come forward, possibly in several jurisdictions, with evidence of illegal cartels; and to safeguard the independence of national competition authorities when enforcing EU competition law, and ensure they have the resources and staff needed to do their work. Empowering the national competition authorities to be more effective enforcers actually comes to better serve the European citizens and businesses.

The enforcement record of the CCA for 2016 was particularly marked by some more than 60 preliminary market investigations in different relevant markets.

In 2016 the CCA established **one prohibited agreement** where the undertaking *Gorenje* was fined more than HRK 1.5 mil for resale price maintenance. The CCA opened an *ex officio* proceeding against the undertaking *Gorenje Zagreb* based on the complaint made by a party afforded a protected identity status. The infringement proceeding was initiated following a

preliminary market investigation in which there have been indices of the possible restriction of passive sales regarding the rebate and pricing policy and criteria used with undertakings engaged in online sales compared with the traditional brick and mortar shops.

The CCA found within the proceeding that *Gorenje Zagreb* entered into a prohibited agreement containing directly or indirectly restrictive provisions on resale price maintenance for white goods and small household appliances of Gorenje brand. The agreement has been concluded with a number of undertakings that sell Gorenje products in the territory of the Republic of Croatia.

Gorenje Zagreb used its rebate policy to induce the resellers to observe a fixed or minimum resale price as a result of pressure on the resellers and implementing a price monitoring system.

Concretely, *Gorenje Zagreb* restricted the independent buyer's ability to determine its sale price and thereby infringed competition rules. The CCA declared the prohibited agreement in question null and void.

However, the data and observations collected in the course of the proceeding lead the CCA to the conclusion that besides the likely restriction of passive sales there has been a reasonable doubt of fixed or minimum sale price maintenance, meaning that the price fixing and the price discounters offered to certain undertakings who sell Gorenje products have been a result of pressure from, and/or incentives offered by *Gorenje Zagreb*, whether orally or in its email communications.

Therefore, the CCA carried out a **surprise inspection** of the business and other premises of *Gorenje Zagreb*. During the dawnraid evidence was found that *Gorenje Zagreb* used the pressure and explicitly asked for acquiescence to its unilateral business policy by other undertakings.

Within the proceeding at issue *Gorenje Zagreb* expressed its will to undertake commitments to restore competition in the relevant market concerned. However, the CCA did not accept the offer taking into account the relatively long duration and the gravity of the infringement.

However, **a number of cases have been closed in 2016 on the basis of commitments** (measures and obligations within a certain deadline) undertaken by the undertakings to restore efficient competition in the market. In 2016 the CCA continued to use commitments in settlement procedures as they swiftly and effectively restore competition in the relevant market, whereas lengthy infringement proceedings and fines for undertakings involved are thereby avoided. The CCA accepted the remedies that were voluntarily offered by the undertakings and that eliminate possible anticompetitive effects; there was no infringement in the sense of Competition Act, no sanctions for undertakings and no costs for the CCA and the State Budget.

In the area of **abuse of dominance and abusive practices** in several antitrust cases the undertakings active in the *press distribution market*, in the *sales of gardening tools and equipment*, *provision of repair and sale of spare parts for outboard engines of Yanmar brand* and in the *provision of funeral services*, by offering commitments that were accepted by the CCA, escaped the abuse within the meaning of competition rules.

As already mentioned above, in the year of 2016 it may be said that **the undertakings seem to recognize commitments as a tool in the infringement procedure** when they face the challenge of violation of competition rules. They seem to know that they have to react swiftly, at the very beginning of the proceeding, and offer commitments within certain deadlines that would eliminate any anticompetitive effects of their behaviour or non-performance in the market concerned.

The CCA accepts and advocates commitments as a settlement mechanism exclusively where no hardcore restrictions are at issue, wherever the proposed remedies are viable and proportionate to possible negative effects on competition, i.e. where there are no negative observations received by the competing undertakings or other stakeholders in the market i.e. a so called market test is carried out by publishing the proposals of the undertaking's concerned on the web site of the CCA. Following its preventive mission and taking into account the effectiveness of such commitments, the CCA always reminds the undertakings of the possibility to use this settlement mechanism, it does not bring a negative decision and it does not impose sanctions, i.e. the parties merely bear the costs of proceedings.

All the undertakings that were in 2016 involved in commitment proceedings have submitted evidence to the CCA that all the commitments have actually been undertaken within the set deadlines.

The report period and particularly the second half of 2016 recorded an increasing activity of the CCA in the area of **merger control**, which is a direct outcome of the amplified global consolidation of certain markets, especially in the telecommunications sector, food retail and media.

In 2016 all concentrations but one have been cleared in the first phase given the fact that they did not have any anticompetitive effects.

In late July 2016 the CCA received the notification of concentration between the undertakings *Optima* and *H1 Telekom* whereas at the same time it received the request made by the undertakings *HT* and *Optima* to revoke its decision on conditionally compatible concentration between *HT/Optima* dating back to 2014. As regards the notification of concentration between *Optima* and *H1 Telekom* the **CCA opened a new case assessing the compatibility of the concentration concerned in the second phase given the significant anticompetitive effects of this merger in the fixed telephony market** in the Republic of Croatia, which was the reason why the CCA carried out an in-depth economic and legal analysis of the transaction in question. Subsequently, the commitments offered by *Optima*

with the objective of eliminating the negative effects of the concentration concerned have been accepted by the CCA. At the same time, upon the request of *HT* and *Optima*, the CCA partially repealed its 2014 decision on the basis of which this merger had been conditionally approved, in the part relating to the duration of this concentration, in other words, it defined new measures, conditions and deadlines that must be met by the parties in the forthcoming period and extended the time period of its duration until 10 July 2021. Both decisions were published on the CCA web site and in the Official Gazette.

There was another merger notified to the CCA in 2016 in the same market – the merger between *VIPnet/Metronet Telekomunikacije* that was cleared in the first phase at the end of January 2017.

In the grocery retailers industry there was one concentration notified in 2016 and cleared in the first phase in January 2017 – the one between *Billa*, *Billa nekretnine* and *Minaco* from Zagreb. The notification for the implementation of the proposed concentration *Müller/Kozmo* (part of *Konzum*) was also received by the CCA in 2016 and cleared at the end of February 2017.

The report year was marked by further consolidation of some other markets – like the hotel market in which *Valamar Riviera* from Poreč acquired the hotel chain *Imperial* from Rab, the meat and meat processing market in which *Mesna industrija braća Pivac* took over *Vajda* from Čakovec, and the press publishing market in which *JOJ Media House* from Slovakia took over *Novi list* from Rijeka, *Glas Istre Novine* from Pula and *RTD* from Zadar. On the other hand, the transaction on the basis of which *MSREF VIII Global-GP* (USA) acquired *Gradski Centar* and *Manta* from Zagreb and thereby became the manager of *City Centar One* shopping precincts, marked the beginning of the consolidation era in the shopping centres industry.

In the area of merger control in 2016 the CCA continued to monitor the implementation of the commitments accepted in 2014 and aimed at removing the anticompetitive effects of the conditionally approved concentrations. These are the cases *Agrokor/Poslovni sistemi Mercator* and *Hrvatski Telekom/OT-Optima Telekom*, where yearlong complex remedies have been monitored with respect to the operation of these groups of undertakings.

In the above mentioned cases trustees were appointed in charge of monitoring and reporting about the implementation of the remedies under the respective CCA decisions. The trustees were approved by the CCA with irrevocable mandates. The integral version of the Annual Report of the Croatian Competition Agency for 2016 contains a detailed analysis of the monitoring activities linked to the above merger cases.

In 2016 the CCA carried out a number of proceedings in the area of merger control in the media and the electronic media sectors. Almost traditionally the media and electronic media operators seem to overlook the obligation to notify a concentration prior to implementation. Despite the fact that the number of unnotified mergers indicted fell in comparison with the

previous report years, in 2016 there was still a substantial number of unnotified cases where the CCA opened an *ex officio* proceeding for the infringement of competition law and imposed fines not exceeding 1 % of the total turnover in the year preceding the concentration on several undertakings in the sector concerned for failure to submit the obligatory prior notification of concentration to the CCA. Although in the past years the CCA has on several occasions urged the undertakings in the media and the electronic media sector to notify transactions regardless of the aggregate turnover thresholds of the parties to the concentration, the negative trend is still present. Given the rather low total turnover of the undertakings in the sector, the fines amounting to 1 % could be an insufficient deterrence for this infringement.

In 2016 there was again a noteworthy number of CCA decisions where concentrations with an EU dimension were notified to the European Commission and then transmitted to all Member States on the account of the fact that any Member State referred to in the reasoned submission may express its agreement or disagreement as regards the request to refer the case. For example, this can happen where the concentration may significantly affect competition in a market within a Member State which presents all the characteristics of a distinct market and should therefore be examined, in whole or in part, by that Member State, in this particular case Croatia and the CCA, in accordance its national competition rules. Namely, in line with the EC Merger Regulation and within the European Competition Network (ECN) cooperation, under the rules governing the referral of concentrations from the European Commission to the EU Member States and in line with the submission procedure, a well-placed authority to deal with the case is decided. These are, in general, so called concentrations with an EU dimension, in principle, producing effects in at least three Member States (cross-border effect). The number of these concentrations with EU dimension has been rather high.

Starting from the view point that the complexity of the proceedings carried out by the CCA under the competition law may still be rather abstruse for the parties, stakeholders and the general public, in its 2016 annual report the CCA provides a detailed description of the infringement proceedings in the case of establishment of a prohibited agreement and abuse of dominance. It also lists the criteria for notification of a concentration and explains the steps taken in the assessment of compatibility of a concentration between undertakings.

Besides the so called preliminary market investigation that is carried out prior to the possible opening of the proceedings and the regulatory assessment, the CCA traditionally conducts **market studies** as research projects with the purpose of gaining an in-depth understanding of how particular sectors or markets work. It gives the CCA useful insights into the competitive structure of the particular sector on the basis of the direct communication with the undertakings and the data so collected. These sectoral inquiries are initiated on the CCA's own initiative whereas in particularly dynamic and sensitive markets they are carried out annually.

Thus, the CCA continued in 2016 with its **regular sector inquiry covering the retail groceries' market in the Republic of Croatia** (market research in food, beverages, toiletries and household supplies). This sector inquiry has regularly been carried by the CCA for some ten years and has been presenting the findings transparently to the public and as such it has almost become the CCA's trademark. For years the public has been taking the data about the market power of the grocery retailers resulting from the CCA groceries' market investigation as the most relevant.

In addition to that, and the above mentioned **investigation in the private motor insurance market**, in 2016 the CCA closed also the **oil derivatives market investigation, particularly motor fuels retail and wholesale in Croatia**. Inspired by the general public and the political interest raised by sudden and constant fluctuations in the prices of motor fuels in the last quarter of 2014 the CCA started this sector inquiry in January 2015. The object of the market inquiry was to establish the relevant facts about the ways and mechanisms used in setting the retail prices of fuels in the period after the liberalization of this market in Croatia, concretely from February 2014 to February 2015. The results of the market investigation showed that the key influence on the retail price was attributable to the input variables that are in general beyond the traders' control, i.e. the purchase price of the fuel, excise and other taxes.

The key findings of the CCA market studies are regularly published in accord with its transparency policy and with the objective of promoting the effects of its decisions, opinions and other activities among the business community, consumers, public administration authorities, academia, experts and general public.

Finally, the international activities of the CCA in 2016 must be noted. These activities include active cooperation with the European Commission, activities relating to the process of convergence of competition rules in the internal market that influence the work of the CCA and the relevant rules and practices at the national level.

Since Croatia joined the EU in 2013 the CCA **international commitments and relating activities** have been a very important part of its activities. In the first place, it means participation in the work of all the working groups within the European Competition Network (ECN), a body comprising the work of the European Commission and the national competition authorities of all the EU Member States and European Economic Area and fostering legislative coherence and convergence between Member States in the area of competition.

Within its international activities in 2016 the CCA experts participated in the ICN workgroups, continued its cooperation with the OECD, UNCTAD and bilateral cooperation.

It is the legal obligation of the CCA to annually report to the Croatian Parliament. Its annual reports are also regularly published on its website together with the decisions, opinions and observations, market investigations and internal acts (Statute, annual plans etc.). The web

site of the CCA publishes also the rulings of the High Administrative Court of the Republic of Croatia in the actions taken against the decisions of the CCA as well as the relevant decisions of the Constitutional Court of the Republic of Croatia. Pursuant to the explicit provisions under the Competition Act all decisions of the CCA are published in the Official Gazette.

The CCA communication activities are related to presentation of the CCA decisions and its work in the public through all available communication channels – its website and its monthly e-bulletin *AZTNinfo*.

The transparency of the work of the CCA has also been ensured by guaranteeing access to files within the meaning of the Act on the Right of Access to Information, guaranteeing the right of all individuals and legal entities to obtain information held by public authorities. In 2016 there were 8 requests for access to files – 5 thereof were cleared, one denied and 2 were re-allocated within the set deadlines. The information commissioner has been communicated the report on the implementation of the Competition Act for 2016.

As a legal person with public powers the CCA particularly pays attention to how it pursues its activities and carefully balances its budget.

The CCA is financed exclusively from the State budget and has no operational or financial revenue of its own. Administrative fees and fines set and imposed by the CCA are within the meaning of Article 26 paragraph 10 of the Competition Act contributed to the State budget of the Republic of Croatia.

The planned funds for the regular operational activities falling under the scope of the CCA in the State budget for 2016 amounted to **HR KUNA 10,343.072,00**. The total executed budget in 2016 amounted to **HR KUNA 10,197,912.03**, which was 98.6 % of the planned funds.

The CCA rationally and responsibly spends the allocated budgetary funds and systematically uses its best endeavours to control the expenses. In comparison with 2015 the material expenditures in 2016 were cut by 17.96 %.

In 2016 the expenditures for employees held the highest share of 73.47 % in the total expenditures. However, these expenditures dropped by HR KUNA 133.617,86 or 1.75 % compared with 2015. **In 2016 there were 44 employed persons in the CCA** (including the members of the Competition Council). 34 employees were directly engaged in the enforcement of competition rules (case handlers) whereas 10 employees carried out other jobs closely related to the enforcement and operational activities of the CCA. The employees of the CCA, including the members of the Competition Council, may not be members of management or supervisory boards, boards of undertakings or members of any other interest associations.

The employees' monthly salaries are paid in compliance with the Decision of the Government of the Republic of Croatia on Public Sector Salaries and the Regulation on Occupations and Qualifications and Setting Pay in Public Sector.

The complexity of the work of the CCA asks for a highly qualified staff – 98 % of the staff holds a degree or similar whereas 23 % hold a postgraduate degree, masters, specialists or a professional doctorate degree. Only one employee has secondary education.

All the employees directly engaged in the enforcement of competition rules must be fluent in English, all the lawyers must have a bar exam, whereas the ones imposing the sanctions must have a four-year work experience after the completion of the bar exam, similar to the judges of the minor offence court. Trainings and professional development and improvement are an important feature of the CCA employment policy.

Taking everything mentioned above into account the CCA assesses its work in 2016 as effective and efficient, particularly in connection with the application of the specific tools in the implementation of the Competition Act.

For any further details of the 2016 Annual Report of the Croatian Competition Agency please refer to its full version in the Croatian language available at the web site of the CCA, also including the list of CCA decisions in 2016, the list of rulings of the High Administrative Court of the Republic of Croatia and the list of sanctions imposed by the CCA on undertakings for infringements of competition rules in 2016.

<http://www.aztn.hr/godisnja-izvjesca/>

President of the Competition Council

Mladen Cerovac

Zagreb, August 2016