

Class: UP/I 034-03/15-01/018

Case: CCA v Presečki grupa d.o.o., Krapina

- Initiative of the undertaking Autotransporti-Kunštek d.o.o., Krapina for the initiation of the infringement proceeding based on alleged abuse of a dominant position
- Initiative dismissed

Date: 13 November 2015

Case summary:

On 13 November 2015 the Croatian Competition Agency (CCA) dismissed due to the lack of grounds the initiative made by the bus operator Autotransporti-Kunštek d.o.o., Krapina for the initiation of the infringement proceeding based on alleged abuse of a dominant position against the bus operator Presečki grupa d.o.o.

The bus operator Kunštek stated in its initiative that the bus operator Presečki acted against the decision of the CCA UP/I 030-02/2006-02/5, Reg.no: 580-02-06-27-35, of 19 December 2006, where after the decision became legally valid it established a so called “third bus terminal” in the immediate vicinity of some 20 to 50 meters distance from the complainant’s bus terminal. The complainant believed that by including some unknown location into the bus time table the undertaking Presečki abused its dominant position in the relevant market and produced harm to its competitors who in Kunštek’s complaint were prevented from carrying out bus services on the stated lines and produced harm for the consumers – the users of these transport services.

In the course of the preliminary market investigation and based on the supplied documents and the established facts of the case the CCA found that the undertaking Presečki does not hold a dominant position in the relevant market concerned.

At the same time, the CCA found that within the meaning of the Road Transport Act the scheduled bus services are provided on inter county and county routes based on a licence (permit) that is obtained from the Ministry of the Sea, Transport and Infrastructure whereas the governing body of the county in charge of transport issues a permit for the provision of scheduled passenger transport services by bus on more than one inland routes, both at the local and inter county level. The provisions of the Road Transport Act clearly indicate that any bus operator can obtain a permit for the provision of scheduled bus transport services for passengers on the said routes, provided that it fulfils the criteria under the law.

In this context the CCA pointed out that the legislative framework in this area does not limit the number of bus terminals (in this particular case bus stops) in particular territory, whereas in the sense of the separate law the use of a bus terminal by a provider of scheduled bus services is obligatory only in places where there is an already existing bus terminal and only if the bus routes are longer than 50 km. This concretely means that the bus operators who operate on the routes that are shorter than 50 km do not have to use the services of the bus terminal.

As regards the above mentioned decision of the CCA of 19 December 2006 it should be noted once again that the view of the CCA had been that the construction of a bus terminal or a bus stop next to the existing one is considered a legitimate conduct of the undertaking even if it holds a dominant position whereas vertical integration does not lead to a significant prevention, restriction or distortion of competition as

long as access to these bus terminals is open to all undertakings engaged in the provision of scheduled bus services under equal conditions.

Finally, the CCA drew attention to the fact that it assessed the arguments in the initiative concerned exclusively in the sense of competition rules given that under its defined powers it cannot affect the implementation of other laws and bylaws that regulate issues and activities that fall under the competence of some other authority.