Class: UP/I 034-03/2015-01/026

Case: CCA v Zagrebačka banka d.d., Zagreb; Privredna banka Zagreb d.d., Zagreb; Erste&Steiermarkische Banka d.d., Rijeka, Raiffeisenbank Austria d.d., Zagreb; Hypo Alpe-Adria-Bank d.d., Zagreb; OTP banka Hrvatska d.d., Zadar; Societe Generale – Splitska Banka d.d., Split;

- Initiative made by Franc Association (Association for the protection of interests of financial services users)

Type of case: Alleged distortion of competition – initiative dismissed

In Zagreb, 23 October 2015

Case summary:

On 13 July 2015 the Croatian Competition Agency (CCA) received the initiative made by Franc Association for the initiation of the infringement proceeding based on alleged restrictive agreement concluded between the undertakings (banks) Zagrebačka banka, Zagreb, Erste&Steirmarkische banka, Rijeka, Raiffeisenbank Austria, Zagreb, Hypo-Alpe Adria-Bank, Zagreb, OTP banka Hrvatska, Zadar and Societe Generale – Splitska Banka, Split in the negotiation process and the working group set up within the Ministry of Finance to deal with the growing problem relating to the strong appreciation of the Swiss franc and its negative impact on the client's debts.

Following the preliminary investigation of the relevant market the CCA decided to dismiss the initiative concerned based on the lack of grounds for the initiation of the proceeding.

Concretely, in the opinion of the CCA the manner in which the banks participated in the working group could not be considered a prohibited agreement that had as its object or effect prevention, restriction or distortion of competition within the meaning of Article 8 of the Competition Act.

In the explanation of its decision the CCA stated that the working group within the Ministry of Finance was set up with the view to finding a solution to the existing problem between the banks in question and their clients, a serious problem that affected a significant number of the Croatian citizens and grew to a social problem seeking solution at the government level relating to the increasing debts of the clients' Swiss franc loans due to the appreciation of this currency.

The CCA established that the Ministry of Finance set up a working group in which representatives of four banks out of seven were appointed. These four banks represented also the interests of other banks who did not have representatives in the working group concerned, which cannot be disputed in the sense of competition rules.

At the same time, in this concrete case the CCA did not find the "collusion" element in the alleged prohibited agreement, in other words, all the facts collected within the preliminary market investigation did not indicate the existence of the object of such an agreement that would lead to restriction or exclusion of competition between the parties to the agreement. In the sense of competition rules the subject of the agreement for the purpose of the working group was not a price fixing agreement between the competitors or any other agreed course of action regarding the loans they give to their clients. At the same time, the effect of this particular agreement was not to share markets or customers between them given the fact that the agreement between the parties was in both areas based on the existing bilateral contractual obligations.

In conclusion, the analysis did not reveal any likely anticompetitive effects of this agreement and no way in which this agreement would exclude competition between the competing parties