

Case: CCA v Hrvatsko društvo skladatelja – Zaštita muzičkih prava, Zagreb (Croatian Collecting Society – Music Copyright Society)

Class: UP/I 034-03/15-01/017

Initiative of the undertakings Hotel Imperial Vodice d.d., Hotel Miran Pirovac d.d. and Hotel Jadran d.d., all from Šibenik, alleging abuse of a dominant position by the Croatian Collecting Society

Type of decision: Decision on dismissal of the initiative

Case Summary

On 13 November 2015 the Croatian Competition Agency (CCA) dismissed the initiative of three undertakings - Hotel Imperial Vodice d.d., Hotel Miran Pirovac d.d. and Hotel Jadran d.d., all from Šibenik, for the opening of an ex officio proceeding based on alleged abuse of a dominant position by the Croatian Collecting Society for lack of grounds.

The complainants stated in their initiative that they had been writing to the Croatian Collecting Society on several occasions for several years asking for the annual licence for public communication of music works and signing of the contract regulating public TV broadcasting of music works in their hotel rooms. In the words of the complainants, the Croatian Collecting Society refused to give them the licence in question as long as the issues from the previously unsettled matters have been resolved. Thus, the complainants asked the CCA to establish whether the Croatian Collecting Society had been treating all hotel undertakings equally, in other words, whether the Croatian Collecting Society had been abusing its dominant position in the market concerned by directly imposing unfair purchase or selling prices or other unfair trading conditions, applying dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage.

The analysis of the contracts concluded between the Croatian Collecting Society and other music users resulted in the conclusion that the Croatian Collecting Society indeed does grant new licences for the public communication of music works as long the previous claims i.e. payments of outstanding debts have been settled. However, in its assessment the CCA found that the same practice is applicable by the Croatian Collecting Society to all undertakings in the relevant market on a non-discriminatory basis and therefore dismissed the initiative in the sense of competition rules.