

Summary:

Class: UP/I 034-03/2015-02/006

Reg.no: 580-11/41-2015-021

Zagreb, 4 November 2015

The Croatian Competition Council took a decision on 4 November 2015 to impose a fine in the amount of 25,000 Kuna on the undertaking Capital FM d.o.o., (former Totalni radio) with its seat in Zagreb, Avenija V. Holjevca 29 (hereinafter: Capital FM) for non-notification of the merger within the prescribed notification deadline in the sense of Article 19 paragraphs 1 and 3 of the Competition Act.

Acting in contravention with Article 19 paragraph 5 of the Competition Act the undertaking concerned acquired the controlling interest over the undertakings Radio Velika Gorica d.o.o. for the production, transmission and broadcasting of radio programmes, from Velika Gorica, and Janus d.o.o. from Osijek. Concretely, on 31 December 2013 and on 31 October 2014 respectively, it implemented the above mentioned transactions that have not received prior clearance of the competition authority and acting so committed an infringement of competition rules.

The CCA received the complete notification for both transactions on 21 July 2015 whereas on 30 July 2015 it decided that it can be reasonably assumed that the concentration did not produce any anticompetitive effect in the relevant markets concerned and cleared it in I phase.

However, in line with Article 62 items 1 and 5 a fine not exceeding 1 % of the total turnover is imposed on the undertaking where it fails to submit the obligatory prior notification of concentration to the CCA and where it implements a concentration in contravention with Article 19 paragraph 5 of the Competition Act.

In line with the Competition Act and the Regulation on the method of setting fines (OG 129/2010 and 23/2015) in the proceeding for establishing the amount of fine for minor infringements under Article 62 of the Competition Act, the CCA took into account the mitigating circumstances of the case. First, the concentration in question did not have anticompetitive effects in the relevant markets concerned. Capital FM notified the concentration on its own initiative. It claimed negligence and confessed that it involuntary committed the infringement of the above provisions, cooperated with the CCA in the course of the proceeding and committed itself not to repeat such infringements in the future. Thus, the CCA decided that in this particular case the fine in the amount of 25,000 Kuna will have a special deterrent effect on recidivism and a general deterrent effect preventing other undertakings from engaging in similar practices.