

Class: UP/I 034-03/15-02/008  
Reg.no: 580-11/41-2015-017  
Zagreb, 11 December 2015

**Mile Kaselj, Đakovo i Novi radio d.o.o., Đakovo – assessment of concentration**  
– **Decision on imposing a fine for non-notification of a concentration**

**Case Summary:**

**The Croatian Competition Agency took a decision on 11 December 2015 to impose a symbolic fine in the amount of 4,500 Kuna on the undertaking Mile Kaselj, Đakovo 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.**

In an ex officio proceeding the Croatian Competition Agency (CCA) established that acting in contravention with Article 19 paragraph 5 of the Competition Act the undertaking Mile Kaselj from Đakovo acquired the controlling interest over the undertaking Novi radio d.o.o. from Đakovo and on 3 June 2014 implemented the above mentioned transaction that has not received prior clearance of the competition authority and acting so committed an infringement of competition rules.

The CCA received the complete notification regarding the acquisition of the controlling interest by Mile Kaselj over Novi radio d.o.o. on 15 September 2015, meaning that the above mentioned infringement lasted in the period from 3 June 2014 to 15 September 2015.

On 7 October 2015 based on the complete notification of concentration within the meaning of Article 20 of the Competition Act, the defined structure of the relevant market of radio broadcasting market and radio advertising in the territory of the wider area of the town of Đakovo, the post-merger market share of the parties to the concentration, expected effects of the concentration in the form of benefits for the consumers, no replies to the request for information as well as other data and findings, the Competition Council found that it can be reasonably assumed that this concrete concentration would not constitute a prohibited concentration in the sense of Article 16 of the Competition Act and it cleared it in the first phase in line with Article 22 paragraph 1 of the Competition Act.

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 the 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. Second, Mile Kaselj claimed negligence in committing the infringement of the above provisions. Third, it cooperated with

the CCA in the course of the proceeding and has not committed such an infringement in the past. The CCA found no aggravating circumstances.

Thus, the CCA decided on a symbolic fine in the amount of 4,500 Kuna, which is 0.9% of the turnover realized in 2014. In the opinion of the CCA the fine will have a special deterrent effect on recidivism and a general deterrent effect preventing other undertakings from engaging in similar practices.