

Class: UP/I 034-03/15-01/035

Reg.no. 580-10/76-2016-009

Zagreb, 14 January 2016

Case: CCA v Poliklinika Zagreb, Zagreb

- Alleged abuse of a dominant position by the health centre – anonymous complaint

Decision: Decision on dismissal due to the lack of grounds for the initiation of the infringement proceeding

Case summary:

The Croatian Competition Agency (CCA) dismissed on 14 January 2016 the initiative made by an anonymous complainant against the health centre Poliklinika Zagreb from Zagreb for alleged abuse of a dominant position due to the lack of grounds for the initiation of an ex officio proceeding.

In its complaint the anonymous complainant stated that Poliklinika Zagreb illegally offered unfair prices for drivers' medicals that were lower than the prices defined by the Decision of the Croatian Government in the amount of 350 for normal driver's medicals and 450 Kuna for vocational drivers' licencing. Poliklinika Zagreb offered 32 percent or 20 percent discounts to these prices for drivers' medicals on the best deals web site www.kupime.hr.

In the preliminary market investigation the CCA established that, first, Poliklinika Zagreb did not hold a dominant position in the relevant market in the territory of the Republic of Croatia, the City of Zagreb and Zagreb County. Therefore, the undertaking concerned could not abuse the non-existing dominance.

Second, the CCA undoubtedly established during the preliminary investigation that involved the analysis of the legal framework of this highly regulated activity that the market in the provision of drivers' medicals and medicals for vocational drivers is very dynamic and competitive where the undertaking concerned was exposed to significant competitive constraints by other undertakings active in this market.

Third, the CCA noted that its role is not that of a price regulator but that of a facilitator of free market mechanisms, and where necessary, sanctioning of a dominant firm who behaves to an appreciable extent independently of its competitors, customers – suppliers and buyers and ultimately of its consumers and uses this behaviour to prevent, restrict or distort free

competition, reinforced by its economic and financial strength. In this particular case, no indices of such abusive conduct were found.

Finally, the CCA stressed that surveillance and sanctioning for possible non-application or misapplication of the laws and other rules regulating the area concerned does not fall under the jurisdiction of the CCA.