

Class: UP/I 034-03/16-01/029
Reg.no: 580-10/76-2016-002
Zagreb, 13 December 2016

**CCA vs. public administration authorities providing business consulting services for small and medium-sized enterprises and public sector
- Initiative relating to the alleged abuse of a dominant position**

Decision: Initiative dismissed due to lack of standing to act

Case summary:

The Croatian Competition Agency (CCA) dismissed the initiative made by the undertaking Ravecon from Sesvete, Croatia, for the initiation of the infringement proceeding against all public administration authorities that provide business consulting services for small and medium-sized enterprises (SMEs) and the public sector due to lack of grounds for the initiation of an ex officio proceeding.

The complainant basically stated in its initiative that the regional and local consultancy agencies connected with the public administration provide services in a way that contravenes competition rules in the territory of the Republic of Croatia.

What followed in the initiative of the complainant were two examples. In the first example it stated that the county, municipal or district development agencies provide their services – financial studies, business plans, EU projects and offer other consultancy services for SMEs and public companies under “lower and most popular” prices. By doing so, they allegedly constitute unfair and unlawful competition for consultancy agencies that are privately owned and that receive no subsidies whatsoever from the cities, municipalities or counties.

What is more, in the words of the complainant the sole purpose of such a system is to finance these development agencies themselves and the local government units and not the private undertakings.

Second, the complainant stated that some of these development agencies are not in a 100% subsidized by the local administration but cross-subsidized on the account of the fact that they receive a certain amount of public aid but at the same time they act on the market and compete unfairly with the undertakings that do not rely on double financing, which enables them to offer lower prices for the same services.

The complainant also gives another example, alleging that even the employees of the public undertaking *Savjetodavna služba (Consultancy Services)* work on the development of projects under the Rural Development Plan for Farmers, which in its opinion is unacceptable.

In the preliminary market investigation the CCA established that the complaint relates to a significant number of legal entities, in other words, to all the public administration bodies

that provide business consultancy services for SMEs and public sector in the territory of Croatia. Therefore, the CCA focused its investigation on the entities that have been indicated in the complaint and described as an example of unfair competition and on the specific nature of the business they run.

In the results of its preliminary market investigation the CCA specified that the development agencies such as HAMAG-BICRO, ARR and *Savjetodavna služba* in this concrete case are very important factors in the implementation of the Croatian development policy that do not act as undertakings but carry out specific activities that have been assigned to them under the principles of solidarity, well targeted objectives and sustainability. These are the reasons why they cannot be defined as undertakings in the sense of competition rules, hence, competition rules do not apply to them.

On the other hand, regional and local development agencies are undertakings in the sense of competition rules that have been empowered to perform services of general economic interest on the basis of an entrustment act where a set of rules explicitly regulates the nature of the tasks such agencies must fulfil in discharging its services. It is important to note here, that competition rules are applicable to such entities as long as the application of these rules does not prevent legally or substantially the performance of the tasks assigned to them.

The issue relating to the financing of the consultancy agencies highlighted in the initiative of the complainant does not fall under the scope of the CCA. The matter concerned is regulated by State aid rules that fall under the competence of the Ministry of Finance and the European Commission.