

Class: UP/I 034-03/16-01/018  
Reg.no: 580-10/65-2016-008  
Zagreb, 29 December 2016

Case: CCA v Municipality of Vir

- Based on the initiative made by a complainant who has requested that his identity remain confidential
- Alleged abuse of a dominant position

**Decision: Initiative dismissed due to lack of standing to act**

**Case summary:**

The Croatian Competition Agency (CCA) received on 13 July 2016 the initiative and on 3 October 2016 perfected initiative within the meaning of Article 37 of the Competition Act (OG 79/09 and 80/13) made by a complainant with confidential identity for the initiation of the infringement proceeding for alleged abuse of a dominant position within the meaning of Article 38 par 1 and 3 and Article 39 of the Competition Act and applying Article 13 of the Competition Act, by the Municipality of Vir and several companies controlled by the Municipality of Vir that are accordingly considered one undertaking within the meaning of Article 4 of the Competition Act. The CCA dismissed the initiative by its decision taken on 29 December 2016 based on the lack of grounds for the initiation of an ex officio infringement proceeding.

The claimant basically stated that the Municipality of Vir has been abusing its dominant position given the fact that the complainant had been denied entry into the sea scooter rental market on the island of Vir and the surrounding area whereas the access to the shore and sea scooter rentals had been permitted to undertakings that had not been registered as trades and that have been carrying out this activity with a tacit approval of the relevant authorities.

The CCA carried out a preliminary market investigation in the case concerned and found that the relevant business activity is regulated by separate laws, particularly the Maritime Domain and Seaports Act and other ancillary provision concerning concessions on the maritime domain. Concretely, the NACE code of activities on the maritime domain lists also sea scooters rental for which it is necessary to get a concession permitting the carrying out of the activity concerned by the relevant municipal authority. The administrative control of the proper implementation of the provisions in this area is entrusted to the ministry of maritime affairs whereas inspections are carried out by the inspectors for the maritime domain of the competent ministry and the port authority.

Thus, following the preliminary market investigation the CCA took a decision on the basis of which it dismissed the initiative concerned due to lack of standing to act.