

Class: UP/I 034-03/17-01/026
Reg.no: 580-10/76-2018-004
Zagreb, 24 January 2018

CCA vs. Iskon internet

- Initiative relating to the alleged distortion of competition – abuse of a dominant position

Decision: Initiative dismissed due to lack of standing to act

Case summary:

Acting in line with the initiative for the initiation of the infringement proceeding against the undertaking Iskon internet d.d. from Zagreb, submitted by the undertaking Magic Net d.o.o. from Ludbreg, the Croatian Competition Agency (CCA) dismissed the initiative concerned due to lack of standing to act.

In short, the complainant asked the CCA to re-examine the justification and the motives based on which the undertakings Iskon and Hrvatski Telekom d.d. with its seat in Zagreb, created their prices in the telecommunications market. Concretely, the complainant asked the CCA to inspect whether the prices that have been offered to non-residential customers had previously been approved by the Croatian Regulatory Authority for Network Industries (HAKOM). A copy of the initiative has also been sent to the HAKOM entitled “predatory pricing/Hrvatski Telekom d.d. – (Iskon)”.

The CCA found in the course of the preliminary market investigation that within the meaning of competition rules - under Articles 12 and 13 of the Competition Act – two criteria must be cumulatively met for establishing abuse of a dominant position: the undertaking at issue must hold a dominant position in the relevant market, and there must be abuse detected in some of the ways listed under the law.

On the other hand, the HAKOM stated that it imposed on the undertakings concerned (HT and the controlled companies – Iskon and OT-Optima Telekom d.d.) the obligation of the margin squeeze test with respect to the prices in associated downstream markets in the wholesale local access provided at a fixed location and wholesale central access provided at a fixed location for mass-market and imposing an obligation regarding the set-up of a cost accounting system under the regulatory framework subject to obligations for price controls or cost-oriented prices.

Thus, the practices of Iskon in this particular case could not be challenged within the meaning of competition rules.