

Class: UP/I 034-03/17-01/025
Reg.no. 580-10/65-2019-064
Zagreb, 13 May 2019

Croatian Competition Agency vs. Hrana Tec d.o.o., Čakovec

- Distortion of competition – abuse of a dominant position

Decision on acceptance of commitments

Case summary:

Based on the initiative made by the undertaking PIK Vrbovec – Mesna industrija d.d., on 8 June 2018 the Croatian Competition Agency (CCA) started an ex-officio infringement proceeding to investigate whether the undertaking Hrana Tec d.o.o. from Čakovec abused a dominant position in the sales of spare parts and provision of repair and maintenance services for Poly-clip System clipping machines in the territory of Croatia.

The complainant PIK Vrbovec originally stated that in the production and processing of meat it uses the clipping machines made by Poly -clip System GmbH & Co. KG whose agent and authorised distributor for Croatia is the company Hrana Tec.

The complainant also claimed that in September 2017 it ordered and paid for an original spare part for the clipping machine but the authorised repairer Hrana Tec refused to install the part as soon as it noticed that the clipping machine had already contained consumables that had been purchased from a distributor different from Hrana Tec.

Finally, the complainant was concerned about the free-of-charge servicing or charging only a flat rate by Hrana Tec to its customers that bought consumables exceeding a certain value of purchase.

In the course of the preliminary market investigation the CCA found that it was only once that Hrana Tec refused to install a display for its customer – the undertaking PIK Vrbovec. Apart from this one isolated case, it has been established in the course of the proceeding that no competing undertaking of the undertaking PIK Vrbovec experienced any difficulties in the business deals with Hrana Tec. What is more, this one-off refusal did not affect the customary good business relations with PIK Vrbovec.

At the early phase of the proceeding, prior to the issuance of the Statement of Objections, Hrana Tec cooperated with the CCA and voluntarily proposed the remedies aimed at eliminating possible anticompetitive effects in the provision of repair and maintenance services and thereby restoring effective competition in the relevant market. In addition, in the market tests that had been carried out in this matter the CCA did not receive any comments by other undertakings.

Concretely, Hrana Tec committed itself to cease and desist the free-of-charge servicing for customers above a certain purchase value and instead to provide its repair and maintenance

services to all its customers under equal conditions regardless of the value of purchase of clipping machines in line with the commercial repair and maintenance policy. Hrana Tec will implement the remedies concerned within a period of 30 days and submit the revised price lists to the CCA serving as evidence of the implemented measures within 60 days after the receipt of the CCA's decision.

Taking everything into account, the CCA accepted the commitments to redress the effective competition and terminated the proceeding against the undertaking concerned without bringing an infringement decision.