

Class: UP/I 034-03/18-04/019

Reg.no: 580-16/122-2020-029

Zagreb, 29 December 2020

## **CCA vs. ŽITO d.o.o., Osijek**

- **Unfair trading practices**
- **Decision on termination of the proceeding**

### **Case summary:**

After having received a complaint from the complainant who has requested that their identity remain confidential, in the sense of application of the Croatian Act on the prohibition of unfair trading practices in the business-to-business food supply chain (UTPs Act), on 6 July 2018 the Croatian Competition Agency (CCA) opened an ex officio infringement proceeding against ŽITO d.o.o. from Osijek within the meaning of the UTPs Act with the view to establishing whether this buyer of crops used its superior bargain power and imposed unfair trading practices on its suppliers, regarding particularly the content and the implementation of the grain contracts.

In the course of the proceeding under the UTPs Act it was necessary to prove whether the buyer of crops – Žito has imposed unfair trading practices on grain suppliers in the sense of the published terms and conditions for the purchase of grains.

The thorough investigation of the CCA included all the elements of the business relations between the grain buyer concerned including the assessment of the nature of the contracts concerned, purchase terms and conditions, price and calculation of price, delivery and payment deadlines, storage and other quantitative and qualitative parameters in the business deals between Žito and its suppliers.

After having established that with respect to the turnover threshold Žito constitutes an undertaking with a strong bargaining power, the CCA continued to follow the circumstantial evidence regarding the inspection of all the above-mentioned elements.

Yet, the CCA further analysis of the above-mentioned provisions under the challenged publicly available purchase terms and conditions concerned found no evidence that would have substantiated the leads for any infringement of the UTPs Act.

In addition, the data communicated by Žito including 1,097 wheat purchase business deals indicated no violation of the 60-day-payment deadline, thereby leading to the conclusion that

1,044 suppliers were paid within the mandatory deadline, in other words, it could not be established that Žito imposed any unfair trading practices in the sense of the UTPs Act.

Similarly, the inspected place of delivery terms and storage conditions raised no concerns within the meaning of the UTPs Act.

Finally, 88 contracts with 37 suppliers investigated by the CCA indicated compliance with the provisions of the UTPs Act regarding the form and the mandatory content of the agreement between the buyer and the supplier, the price of the product, quality and type of the product, terms of payment, place of delivery and the duration of the agreement.

Consequently, taking into account all the facts of the case and the circumstantial evidence collected in the course of the proceeding and in line with its powers under the UTPs Act the CCA adopted a decision on termination of the proceeding given the absence of legal presumption for any further action within the meaning of the UTPs Act. Despite the circumstantial evidence that lead to the opening of the infringement proceeding concerned, in the course of the investigation the CCA found no evidence that would have substantiated the leads or found new evidence for any infringement of the UTPs Act.

Therefore, the CCA adopted a decision to terminate the administrative proceeding concerned.