

**Class: UP/I-030-02/2006-01/18**

**31.12.2008**

**Case: CCA vs. VIPnet d.o.o. Zagreb**

**Type of case: Competition - Prohibited Agreement**

**Type of decision: Decision on prohibited agreements**

In the proceedings initiated *ex officio* the necessary analyses proved that in the period from 2004 to the day of the adoption of the decision of the CCA, the undertaking VIPnet d.o.o. from Zagreb concluded 94 agreements with its distributors on the sales of prepaid vouchers, prepaid boxes, packages and mobile phones which contained a number of hard core restrictions. The provisions in question involved fixing the minimum selling price or maximum rebates for the resale of the above listed products, which *de facto* mean the restriction of the buyers' right to freely set the sales prices.

At the same time, VIPnet made the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts.

In addition to that, in its agreements with the Big Buyer distributors, the undertaking VIPnet set additional obligations that by their nature or according to the commercial usage, have no connection with the subject of such contracts, and are typical for selective distribution agreements. Those obligations are for example detailed criteria for sales outlets, detailed marketing activities of its distributors etc. At the same time, those distributors did not benefit the right that they should have been entitled to if these agreements would have been considered selective distribution agreements, such as to sell the products solely to the end users and not to sell them to the third parties which are not VIPnet authorised dealers for re-sale. What is more, the product distributed by Big Buyer distributors is not a characteristic product which would be a subject of a selective distribution agreement (such as the above mentioned prepaid vouchers, prepaid CD boxes and packages).

In its decision the CCA declared all the above mentioned agreements containing hard core restrictions void and ordered the undertaking in question to delete or modify all provisions which as such significantly impede competition.

In respect of the above mentioned additionally imposed obligations contained in selective distribution agreements the CCA concluded that particular provisions contained in a selected number of agreements may be considered as anticompetitive and as such represent infringements of competition rules.