

**Class: UP-I/ 030-02/2006-01/20**

**Case: Motor Vehicle Repairer Workshops Section of the Trades and Crafts Chamber of the Split- Dalmatia County, Split vs. Euroherc osiguranje d.d., Zagreb and Jadransko osiguranje d.d., Zagreb**

**Type of case: competition-alleged abuse of a dominant position**

**Type of decision: Decision on rejection of the request for alleged abuse of a dominant position of 30 December 2008**

### RELEVANT MARKET

#### Relevant product market

Repair of cars market.

#### Relevant geographic market

Splitsko-dalmatinska county.

### THE PROCEDURE

The complaint was submitted to the CCA by the Motor Vehicle Repairer Workshops Section of the Trades and Crafts Chamber of the Split- Dalmatia County. It referred to alleged exclusionary practices of the insurance companies against the repairers who did not conclude agreements with the former, pressure on repairers to conclude such agreements and intimidation of policy holders to carry out the repairs after the damage in particular repairer workshops.

### COMPETITION ANALYSIS

After the legal and economic analysis the CCA established that Agram group holds a dominant position in both relevant markets – compulsory and comprehensive insurance in the territory of Split-Dalmatia County in 2005, 2006 and 2007. A significant market share held by Agram group is also indicated in the neighbouring markets covering the claims settlement procedures relating to both compulsory and comprehensive car insurance in the same territory during the same period (in 2005 and 2006 Agram group held a dominant position in both markets). The CCA also established that the motor vehicle repairers market which is connected to claim settlements in the referred territory indicates a low degree of concentration and thus more competition. Hence, the market power a particular insurer undertaking in the insurance market spills over to the repairers' market connected with damage, given a higher number of policy holders and increased number of repairs due to damage.

Euroherc concluded cooperation agreements with only 5 repairers in the territory of Split-Dalmatia County, out of 199 who it did business with in 2005 or out of 184 in 2006. Nevertheless, five repairers in question hold only a negligible share, less than 5 % of the payments made for damage repairs in the total amount of compensation under the claims for damages by the undertaking Euroherc to all repairers which it did business with in 2005 and 2006.

Jadransko osiguranje concluded no cooperation agreements in the same territory during the same periods. It did business with the similar number of repairers as Euroherc osiguranje in 2005 and 2006. Two repairers – Euro Daus d.d. and Euro Daus 1963 d.d. are members of

Agram group. The former held a share of 10 -20 % in the amount of payments made by Euroherc to repairers in 2005, with a falling trend in 2006.

The latter started its cooperation with Euroherc osiguranje only in 2006 with a share of some 0 – 10 %. In 2005 Euro Daus held a share of 10 – 20 % in the total payments made for damage repairs by Jadransko osiguranje, whereas in 2006 this share was 10 – 20 %.

In line with the above findings the CCA decided that there was no evidence that the repairers were put under pressure by the members of Agram group. The number of concluded agreements was negligible with a falling trend. The repairers who entered into such agreements did not make more significant revenues on the basis of payments under claim settlement compared with the repairers who did not conclude agreements with insurance companies.

The affiliated undertakings within Agram group – Euro Daus and Euro Daus 1963 did not have a significant share in the total payments made to repairers under the claims for damages by the undertakings Euroherc and Jadransko osiguranje in the reported period.

Thus, the matter concerned did not involve application of dissimilar conditions to equivalent transactions with other trading parties or supplementary obligations under the contracts which by their nature or according to commercial usage have no connection with the subject of such contracts.

It must be noted that the case included a comprehensive investigation by the CCA, loads of data and witnesses' statements during three oral hearings. The findings indicated that there was no significant influence exerted on the policy holders regarding their choice of repair shops. The CCA consequently decided that abuse of a dominant position by the undertakings concerned in the relevant market in question could not be established in line with its investigation and oral and written evidence furnished by the parties and the witnesses to the case. Thus, the business practices concerned did not constitute abuse of a dominant position in the form of directly or indirectly imposing unfair purchase or selling prices or other unfair trading conditions (as to the work norms and hourly rates of repairers). What is more, the submitted evidence proved that the insurance companies in general covered for the costs claimed by the repair shops, whereas where these costs underwent corrections the balance was not significant enough as to indicate behaviour which would distort competition in the motor vehicle repair sector concerning the payments in terms of compensations for damages made by insurance companies.

## OUTCOME

The CCA rejected the request of the Motor Vehicle Repairer Workshops Section of the Trades and Crafts Chamber of the Split-Dalmatia County, Split concerning the alleged abuse of a dominant position by the insurance companies Euroherc osiguranje d.d., Zagreb and Jadransko osiguranje d.d., Zagreb in the compulsory third party insurance market and comprehensive automobile insurance market. The request was rejected due to lack of legal grounds concerning the complaint of the Repairers Workshops against the insurance companies in question who are connected undertakings of Agram group.