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REPORT

on the activities of

THE AGENCY FOR THE PROTECTION OF MARKET COMPETITION
(March 1999-April 2000)

- ABRIDGED TEXT -

Zagreb, May 2000

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AN OVERVIEW OF ACTIVITIES

April 1999 - May 2000

Zagreb, May 2000

1. OVERVIEW OF ACTIVITIES OF THE AGENCY FOR THE PROTECTION OF MARKET COMPETITION

1.1 GENERAL ASSESSMENT

In the period covered by the report, both the scope and the complexity of the Agency's activities increased significantly. This can be deduced not only from the increase in the volume of cases and proceedings illustrated in the tables below, but also from the more demanding requirements that the Agency's services had to meet when conducting proceedings involving some of the major entrepreneurs.

What basically characterised the situation on the market, compared to the previous year, were several instances of abuse by some of the major entrepreneurs, against which the Agency instituted and terminated proceedings, or is still conducting them. These were, for instance, Hrvatske telekomunikacije (Croatian Telecommunications) (7), INA (Oil Company) (6), Tvornica duhana Rovinj (Rovinj Tobacco Factory) (5), Narodne novine (Official Gazette) (2), American Express, Diners (2), Zagrebacka banka (Zagrebacka Bank and others).

At the same time, the Agency assessed some large merger or take-over projects involving entrepreneurs and banks, both on the Croatian market and on markets worldwide, which had notified the Agency of their concentrations.

In order to properly carry out such activities, special economic and legal analyses of markets had to be made and extensive professional documentation had to be analysed. Furthermore, frequent requests and claims submitted by entrepreneurs who were parties to proceedings had to be given a professional and analytical response.

In reference to the report for the previous year, the Agency continued to receive cases where entrepreneurs approached the Agency and complained of competitors restricting their operations by different decisions, consents, approvals and the like. The following was established in the resulting administrative proceedings: some entrepreneurs, most of whom having been privatised, had certain powers enabling them to regulate their activity, to grant approvals for the opening of businesses (car testing centres) or to issue attestations (Hrvatske telekomunikacije), to fix prices and the terms of use of important business premises (bus stations) or, as holders of maritime good concessions, to issue approvals determining which entities might provide tourist services and under which conditions, etc.

The main problem with such markets was that these power-holders were also the main providers of these services and therefore competitors to all other smaller and newly arrived entrepreneurs. The Agency established that they had used their powers in a way that favoured their activities and restricted the operations and businesses of others. In such cases, the Agency's activity was reduced merely to providing opinions, to cooperation with the Croatian Government and state administration authorities and to the drafting of proposals for amendments to regulations. In some cases, the Agency's comments and opinions were taken into account and eventually integrated into amendments to the legislation (the sale of insurance at car testing centres, pilotage, rules of national parks, Law on Telecommunications).

1.2 METHOD OF WORK

In the period under review, the Agency created conditions for work in terms of documentation and premises, and trained five interns who were employed on a permanent basis.

The Agency's professional services had 18 employees: 9 interns and 6 economists who had during their employment become trained in the use of CELEX and JUSTIS materials and databases.

The Agency's professional employees participated in different seminars on competition organised by the OECD, the Ministry for European Integration and the Diplomatic School, using international contacts to compare their experience and practice.

Six employees are regular students of legal and economic postgraduate studies at the University of Zagreb.

Within its training programme, the Agency organised an international seminar in April 2000 with eminent experts of the U.S. Department of Justice and the U.S. Federal Trade Commission as lecturers.

In the framework of its information activity, the Agency published a Bulletin in Croatian and in English, containing English translations of laws, reports and some of the Agency's decisions.

1.3 OVERVIEW OF ACTIVITIES

The Agency for the Protection of Market Competition launched its activity at the beginning of 1997. Up until February 2000, it received **1155 cases**.

The breakdown of these cases is illustrated in Table 1 and in Figure 1.

Table 1

Proceedings Instituted in 1997, 1998 and 1999

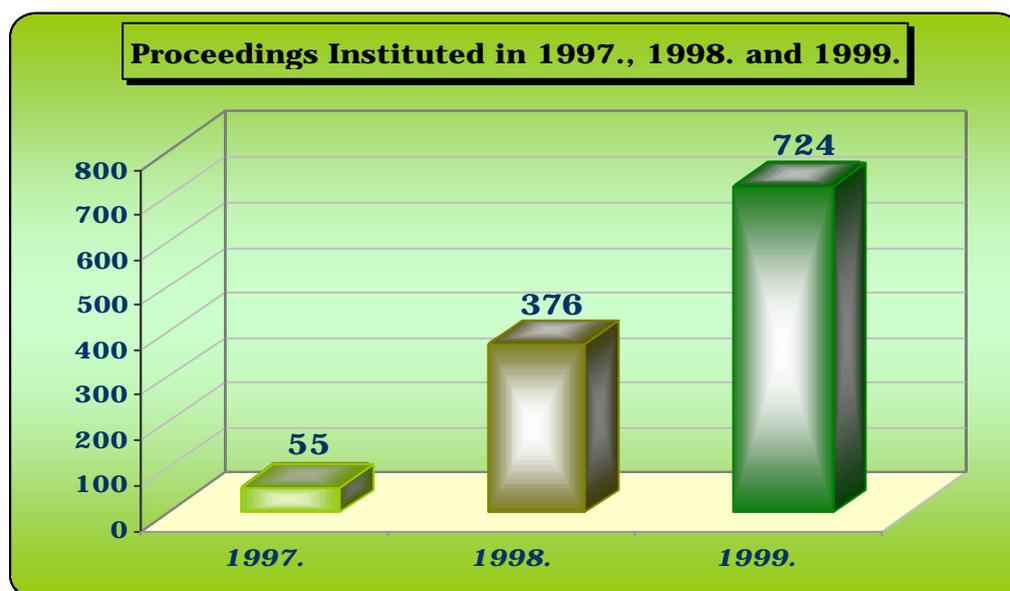
	1997.	1998.	Increase in % 98./97.	1999.	Increase in % 99./97.	Increase in % 99./98.
Proceeding instituted in order to establish the existence of abuse of dominant or monopolistic position, and of an infringement of free market competition	27	68	151.85%	90	233.33%	32.35%
Assessment of Agreements	9	264	2833.33%	534	5833.33%	102.27%
Concentrations	5	25	400.00%	64	1180.00%	156.00%
Opinions	14	19	35.71%	36	157.14%	89.47%
Total Proceedings Instituted	55	376	583.64%	724	1216.36%	92.55%

Source: Agency for the Protection of Market Competition of the Republic of Croatia, Research and Statistics Department, 2000

*Note: 1. In some of the cases in 1997 and 1998, the parties instituting proceedings asked for a preliminary expert opinion, for an assessment of their agreement and for the establishment of the existence of an abuse of a dominant or monopolist position all at once.

2. In several cases (involving assessments of agreements) in 1999, several hundred agreements had to be assessed under a single classification mark, while in the previous years every individual assessment was given a separate classification mark.

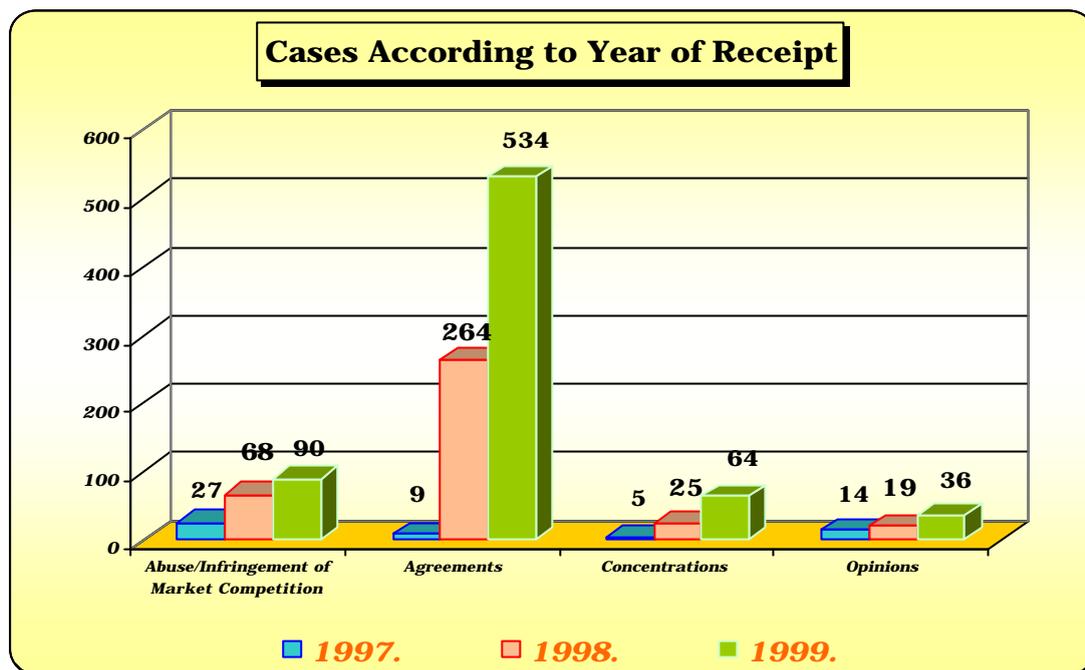
Figure 1



Source: Agency for the Protection of Market Competition, Research and Statistics Department, 2000

If the cases received are divided according to the type of proceedings instituted, the following chart is obtained (Figure 1a):

Figure 1a



Source: Agency for the Protection of Market Competition, Research and Statistics Department, 2000

In 1997, 55 cases were received. In 1998, 375 cases were received which account for a 584% increase compared to 1997. As many as 724 cases were received in 1999, which make up an amazing 1216% increase compared to 1997, or a 93% increase compared to 1998.

This shows a dramatic increase in the annual quantity of cases received, that is, of proceedings instituted by the Agency.

Out of 724 proceedings instituted in 1999, 596 of them were terminated.

An overview of the proceedings terminated and of the proceedings pending in 1997, 1998 and 1999 is given in Table 2 and in Figures 2a and 2b.

Table 2

An Illustration of the Cases Terminated and of the Cases under Examination in 1997, 1998 and 1999

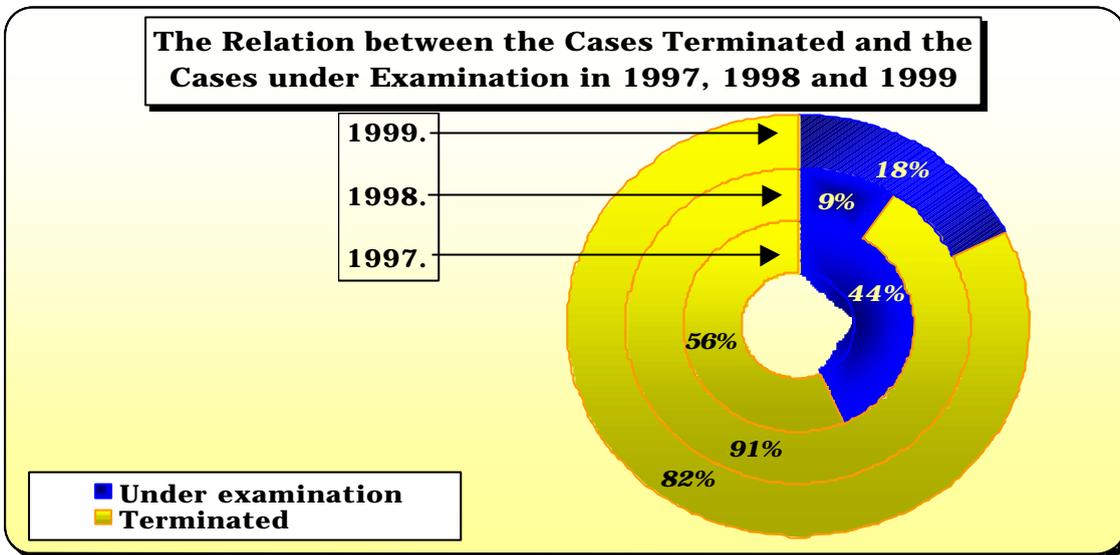
Cases	1997.	1998.	Increase in % 98./97.	1999.	Increase in % 99./97.	Increase in % 99./98.
Under examination	24	35	45.83%	128	433.33%	265.71%
Terminated	31	341	1000.00%	596	1822.58%	74.78%
TOTAL	55	376	583.64%	724	1216.36%	92.55%

Source: Agency for the Protection of Market Competition, Research and Statistics Department, 2000

Table 2 indicates that **596** of all the cases received in **1999** (724 cases) **were terminated**, which makes **82.32%** of all the cases received.

In **1998**, **90.61%** of the cases received were terminated, whereas in **1997** the percentage amounted to **56.36%** (**Figures 2a and 2b**).

Figure 2a

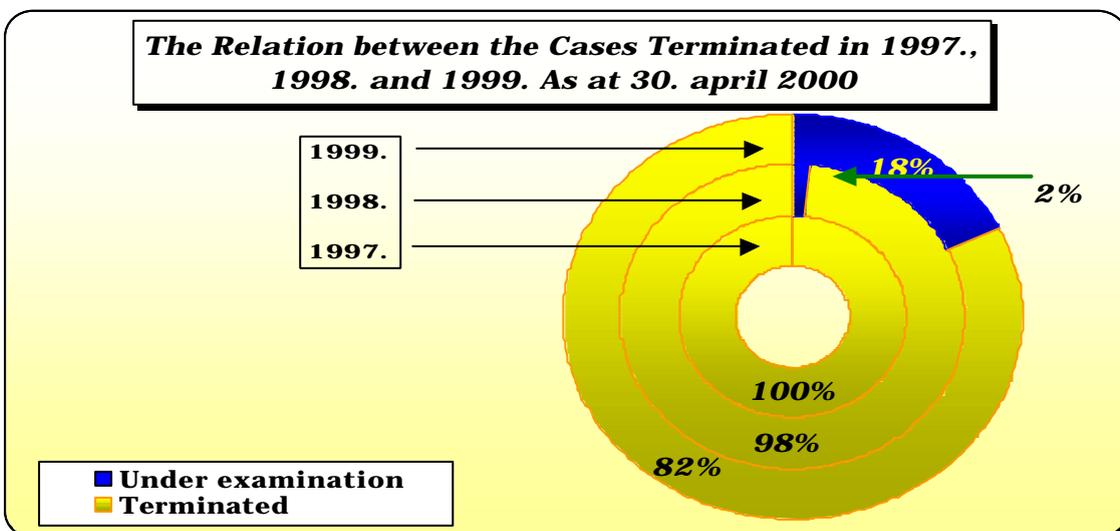


Source: Agency for the Protection of Market Competition, Research and Statistics Department, 2000

Moreover, account must be taken that in **1999** the Agency resolved a large quantity of cases received in **1997** and **1998** that had been under examination until **1999**. Therefore, the large quantity of cases received in **1999** and under examination (**128 cases**, see **Table 2**) is not surprising.

To this day, **100%** of the cases received in **1997** have been concluded. As for the cases received in **1998**, **83%** of those have been terminated, but **some were still under examination at the end of the period covered by the report**. Ultimately, **98.4%** of proceedings instituted in **1998** were brought to an end (see **Figure 2b**).

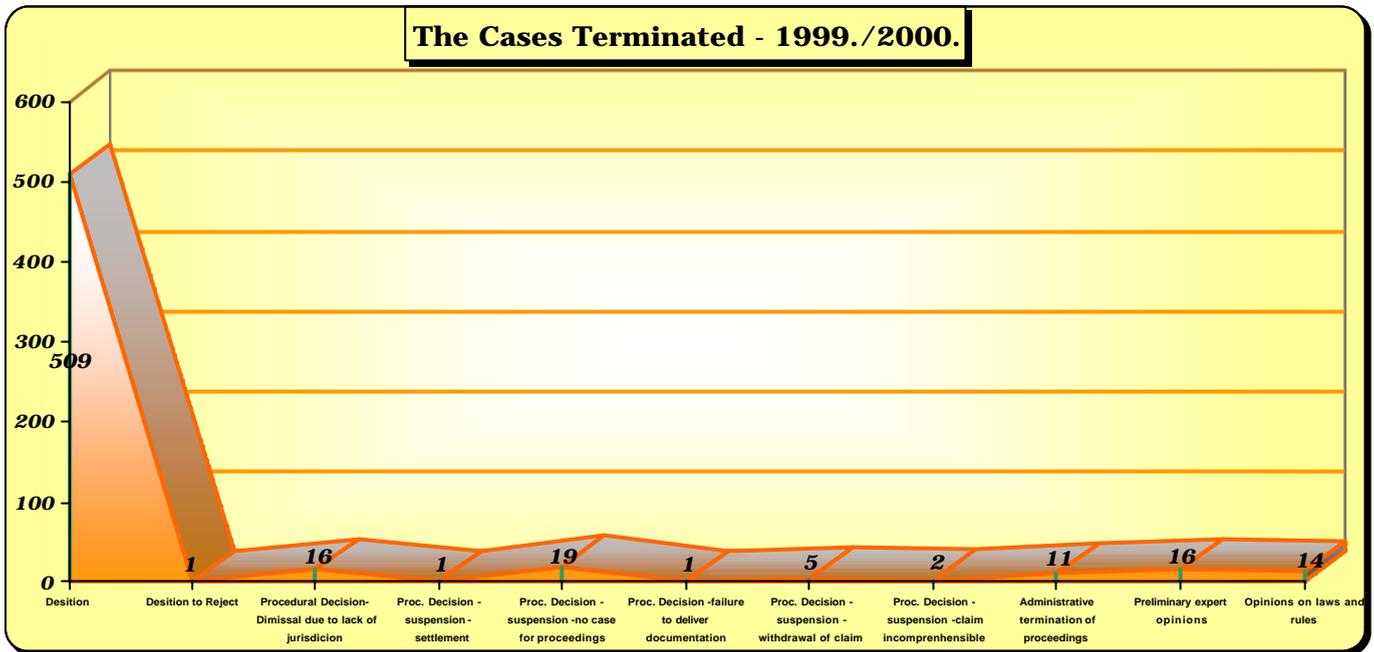
Figure 2b



Source: Agency for the Protection of Market Competition, Research and Statistics Department, 2000

Figure 2c illustrates the way in which the Agency qualifies the resolved cases. Next to the qualification stands the number of terminated cases.

Figure 2c



Source: Agency for the Protection of Market Competition, Research and Statistics Department, 2000

Table 3 indicates the percentage of cases terminated in respect of the total quantity of cases received in 1999, as well as the cases terminated according to qualifications against the entire number of resolved cases.

Table 3

The Cases Terminated in 1999 in respect of All the Terminated Cases and of All the Cases Received in 1999

	Cases Terminated in 1999.	Percentage of all ases received	Percentage of all cases resolved
Desition	509	70.30	85.40
Desition to reject	1	0.14	0.17
Procedural decision - dismissal for lack of jurisdiction	16	2.21	2.68
Procedural decision - suspension - settlement	1	0.14	0.17
Procedural decision - suspension - no case for proceedings	20	2.76	3.36
Procedural decision - suspension - failure to deliver documentation	1	0.14	0.17
Procedural decision - suspension - withdrawal of claim	5	0.69	0.84
Procedural decision - suspension - claim incomprehensible	2	0.28	0.34
Administrative termination of proceedings	11	1.52	1.85
Preliminay expert opinions	16	2.21	2.68
Opinions on laws and rules	14	1.93	2.35
Total	596	82.32	100.00
Total cases recived in 1999	724		

Source: Agency for the Protection of Market Competition, Research and Statistics Department, 2000

2. THE QUALIFICATION OF CASES

Table 4 indicates the cases terminated and those under examination, according to the qualifications under the ZZTN (Law on the Protection of Market Competition).

Table 4

Cases Terminated according to Qualifications

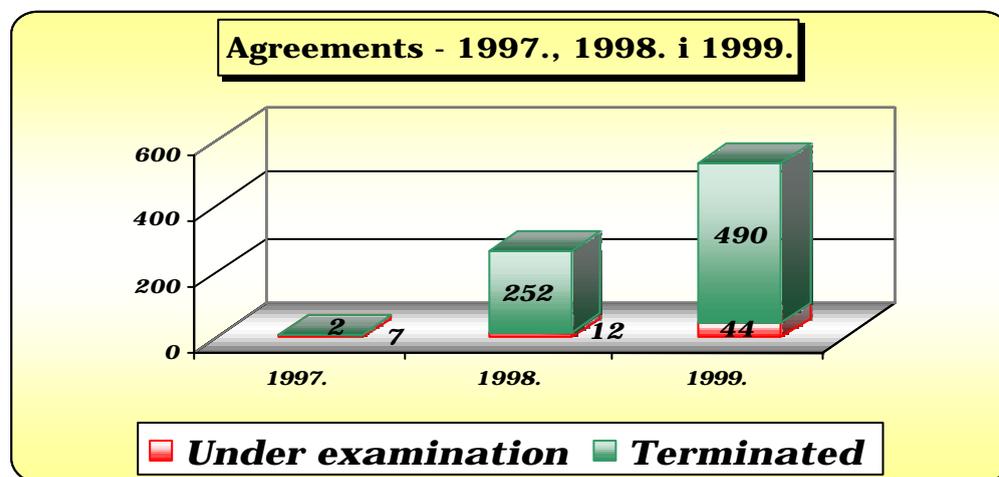
	1997.	1998.	Increase in % 98./97.	1999.	Increase in % 99./97.	Increase in % 99./98.
Abuse	27	68	151.85%	90	233.33%	32.35%
Under examination	11	12	9.09%	41	272.73%	241.67%
Terminated	16	56	250.00%	49	206.25%	-12.50%
Agreements	9	264	2833.33%	534	5833.33%	102.27%
Under examination	7	12	71.43%	44	528.57%	266.67%
Terminated	2	252	12500.00%	490	24400.00%	94.44%
Concentrarians	5	25	400.00%	64	1180.00%	156.00%
Under examination	5	8	60.00%	38	660.00%	375.00%
Terminated	0	17		26		52.94%
Opinions	14	19	35.71%	36	157.14%	89.47%
Under examination	1	3	200.00%	5	400.00%	66.67%
Terminated	13	16	23.08%	31	138.46%	93.75%

Source: Agency for the Protection of Market Competition, Research and Statistics Department, 2000

2.1 Agreements

The majority of the cases received related to the assessment of agreements (see Table 4). As many as **534** cases of all the cases received in **1999** were in fact **assessments of agreements** (see Figure 3). This is explained by the fact that entrepreneurs tend to conclude certain types of contracts with a greater number of entrepreneurs. For instance, large entrepreneurs normally conclude distribution contracts with many small entrepreneurs - tradesmen - who distribute products to end-users. In view of the fact that these contracts usually contain provisions placing these contractual parties in an unequal position and which often harm end-users, each and every contract must be assessed separately.

Figure 3

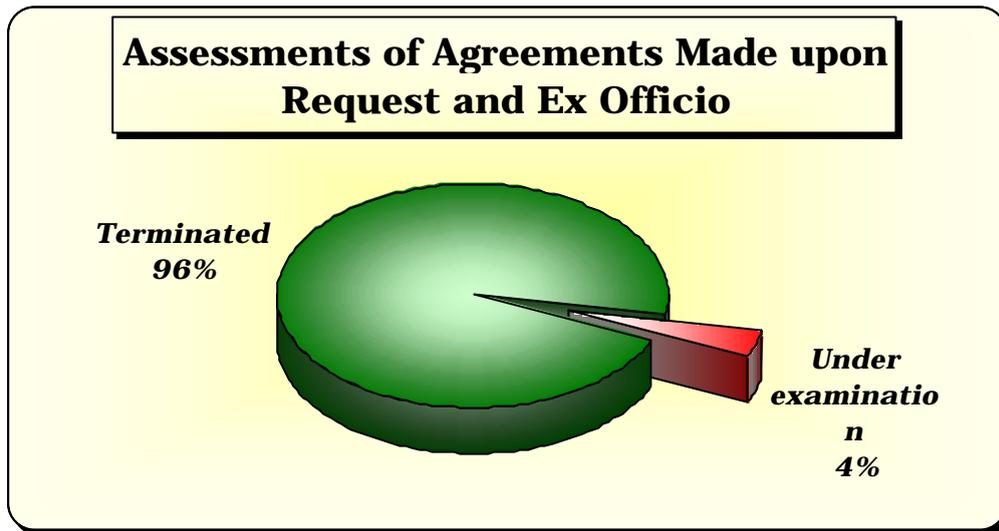


Source: Agency for the Protection of Market Competition, Research and Statistics Department, 2000

Figure 3 shows a prominent increase in the numbers of agreements assessed in 1999, that is, a **5833 percent** increase compared to 1997 and a **102 percent** increase compared to 1998 (see Table 4).

Although especially high, the increase in respect of 1997 was not extraordinary in view of the fact that the Agency started its activity in 1997 and that most entrepreneurs in the Republic of Croatia were not even acquainted with the principles of market competition law or with the fact that there was a body in Croatia dealing with the issue.

Figure 4

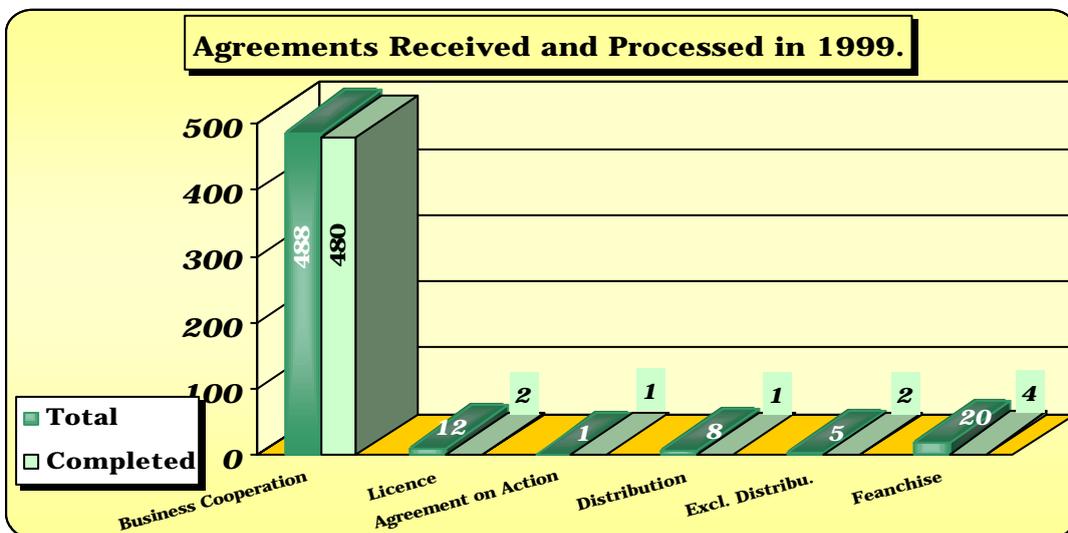


Source: Agency for the Protection of Market Competition, Research and Statistics Department, 2000

Of **534 cases** dating from 1999, where the proceedings of assessing agreements were or are being conducted, the Agency instituted **513 proceedings** ex officio which account for **96.06%** of all the cases involving assessments of agreements (see Figure 4), whereas **21 proceedings (3.94%)** were instituted upon request.

When the agreements received in 1999 are classified, the following chart is obtained (Figure 5).

Figure 5



Source: Agency for the Protection of Market Competition, Research and Statistics Department, 2000

Therefore, **Figure 5** illustrates that the majority of agreements are **agreements on business cooperation**, which account for **91.38%** of all the agreements received in 1999. They are followed by **agreements on franchising**, which make up **3.74%** of all agreements, and licensing agreements accounting for **2.24%** of all agreements.

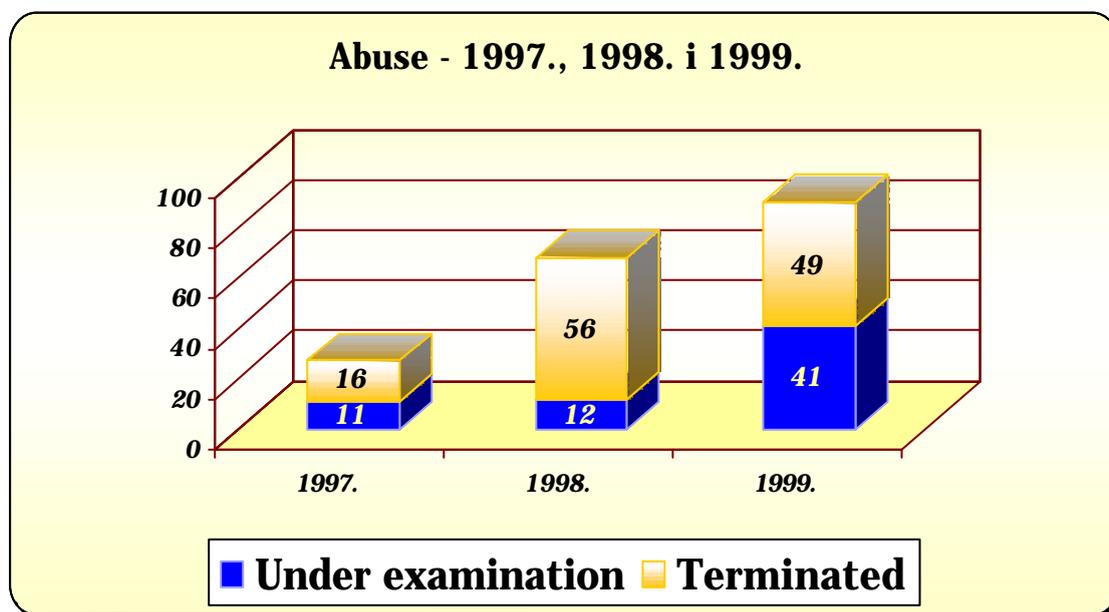
2.2 Abuse of Dominant or Monopolist Position - Infringement of Free Market Competition

The second largest category of cases and proceedings instituted by the Agency for the Protection of Market Competition is the **abuse of a dominant or monopolist position, that is, infringement of free market competition**.

In 1999 there were **90 cases** falling under the category of the abuse of a dominant or monopolist position, that is, infringement of free market competition. The above figure represents a **233.33 percent** increase compared to **1997** and a **32.35 percent** increase compared to **1998** (see Figure 6).

According to the statistics, at the end of the period under review **49 cases** had been completed, accounting for **54.44%** of all cases of abuse examined in 1999, whereas **41 cases** or **45.56%** are still being examined (see Table 4 and Figure 6).

Figure 6



Source: Agency for the Protection of Market Competition, Research and Statistics Department, 2000

Of the **90** proceedings instituted with a view to establishing the existence of an infringement of free market competition, **15** of them were instituted by the Director of the Agency ex officio and the remaining **75 proceedings** were instituted at the request of entrepreneurs who had filed a complaint (see Table 5 and Figure 7).

Table 5

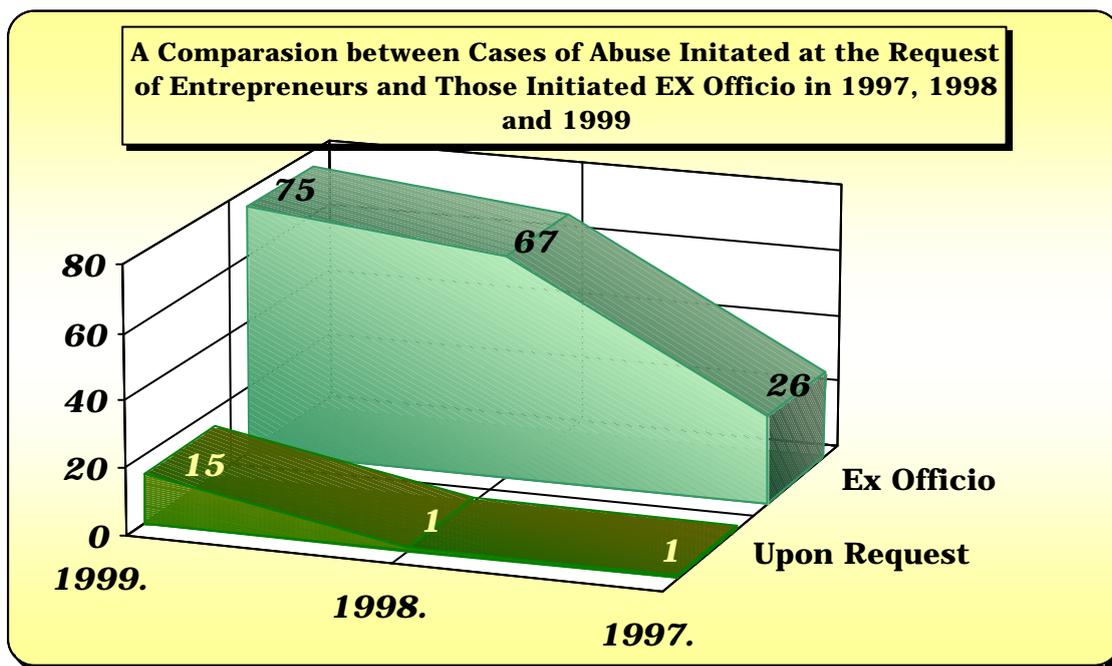
A Comparison between Cases of Abuse Initiated Ex Officio and Those Initiated at the Request of Entrepreneurs in 1997, 1998 and 1999

	Year 1997	Percentage of all cases of abuse	Year 1998	Percentage of all cases of abuse	Year 1999	Percentage of all cases of abuse
1	2	3	4	5	6	7
Upon Request	26	96.30%	67	98.53%	75	83.33%
Ex Officio	1	3.70%	1	1.47%	15	16.67%
Total	27		68		90	

Source: Agency for the Protection of Market Competition, Research and Statistics Department, 2000

The large discrepancy between the volume of cases categorised as abuse in 1999, and those in 1997 and 1998, can be explained by the increase in the staff employed with the Agency at the end of 1998, resulting in greater efficiency in the examination of cases. In this respect, it is important to note that a body such as the Agency for the Protection of Market Competition is indispensable for the Croatian market to deal with certain elements of anarchy among entrepreneurs, who tend to run their businesses on a "dog-eat-dog" principle.

Figure 7



Source: Agency for the Protection of Market Competition, Research and Statistics Department, 2000

The increase in the volume of cases falling under this category, compared to 1997 and 1998, indicates that **the increase in the quantity of such cases is much lower than in the category of assessments of agreements (see Table 1)**. However, it must also be considered that every case of abuse of a dominant or monopolist position and of infringement of free market competition requires highly detailed and thorough analyses by legal and economic specialists and that these cases are much more time consuming.

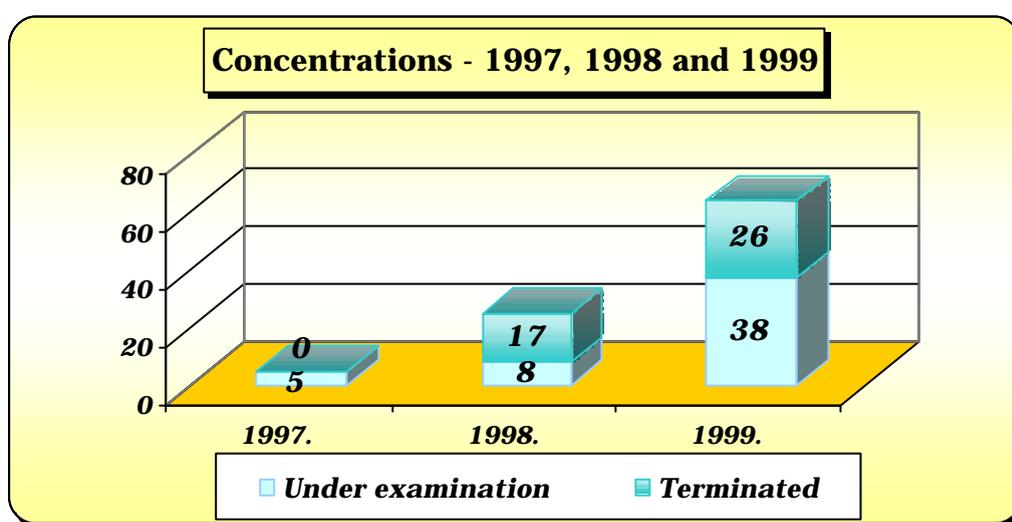
2.3 CONCENTRATIONS

- Linking, annexing, connecting, merging of entrepreneurs or gaining a majority shareholding and a majority voting right

In 1999, the Agency received **64 applications** for an assessment and approval of concentrations. Of these, **42 proceedings** were instituted on the basis of the Agency's invitation to submit applications and **22 proceedings** were instituted upon direct applications by parties.

The increase in the volume of instituted proceedings is presented in percentages in Table 4 (also see **Figure 8**), while a comparison between proceedings instituted by parties and proceedings instituted upon the Agency's invitation in 1997, 1998 and 1999 can be seen in **Table 6** and **Figure 9**.

Figure 8



Source: Agency for the Protection of Market Competition, Research and Statistics Department, 2000

Table 6

Notifications of Concentrations upon the Agency's Invitation Compared to All Concentrations Effected in 1997, 1998 and 1999

	Year 1997	Percentage of all concentrations	Year 1998	Percentage of all concentrations	Year 1999	Percentage of all concentrations
1	2	3	4	5	6	7
Upon application by parties	2	40.00%	15	60.00%	22	34.38%
Upon Agency's invitation	3	60.00%	10	40.00%	42	65.63%
Total	5		25		64	

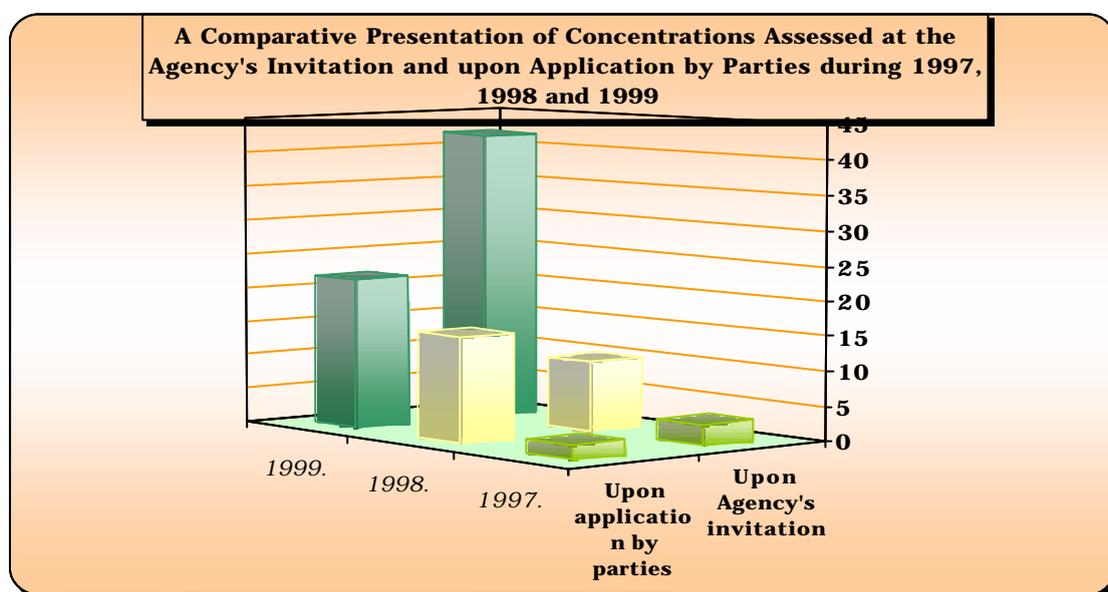
Source: Agency for the Protection of Market Competition, Research and Statistics Department, 2000

In the course of **1998**, the incidence of concentrations notified by parties was **1.5 times** higher than the incidence of those notified after the Agency's invitation. This, compared to 1999 when there were **1.9 times** more concentrations notified after the Agency's invitation than those notified by entrepreneurs directly, bears witness to the fact that **the Agency**

increased the number of experts who were in charge of assessing these concentrations and who were monitoring certain markets (Figure 9).

This is supported by the fact that the number of concentrations in 1999 increased by 156% compared to 1998, as a result of the world trend of globalisation affecting all markets, including the Croatian one.

Figure 9



Source: Agency for the Protection of Market Competition, Research and Statistics Department, 2000

2.4 Preliminary Expert Opinions and Opinions on Laws and Rules

Within its scope of activity, the Agency gives preliminary expert opinions and opinions on laws and rules in terms of possible restrictions of market competition, pursuant to the provisions of Article 30 paragraph 1 points 3 and 6 of the Law on the Protection of Market Competition (ZZTN).

Table 7 indicates that in 1999 the Agency delivered 36 opinions, accounting for a 157.14% increase compared to 1998 and an 89.47% increase compared to 1997.

Table 7

A Comparison of Opinions Delivered in 1997, 1998 and 1999

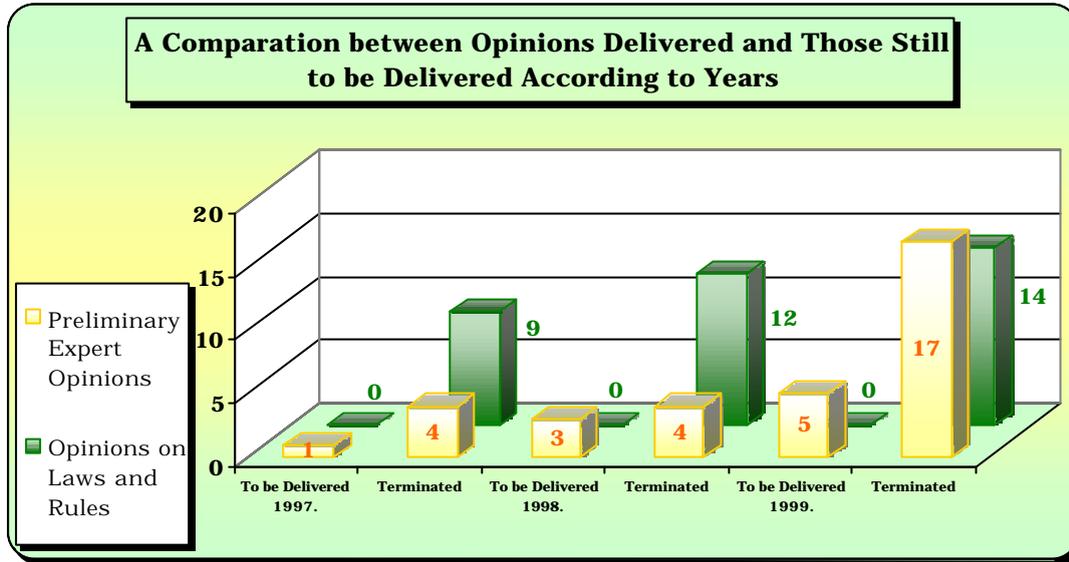
Opinions	1997	1998	Increase in % 98./97.	1999	Increase in % 99./97.	Increase in % 99./98.
	2	3	4	5	6	7
Preliminary Expert Opinions	5	7	40.00%	22	340.00%	214.29%
Opinions on Laws and Rules	9	12	33.33%	14	55.56%	16.67%
TOTAL	14	19	35.71%	36	157.14%	89.47%

Source: Agency for the Protection of Market Competition, Research and Statistics Department, 2000

Figure 10 contains a comparison between the opinions delivered according to the years in which they were made, and those that are still being developed or were being developed in the period under review.

Figure 10

A Comparison between Opinions Delivered and Those Still to be Delivered According to Years



Source: Agency for the Protection of Market Competition, Research and Statistics Department, 2000

As can be seen in **Figure 10**, all the opinions on laws and rules have been delivered. On the other hand, **80% of all preliminary expert opinions dating from 1997 were presented (92.85% of all opinions were completed in 1997)**, as well as **57.14% of those dating from 1998 (84.21% of all opinions in 1998)** and **77.27% of those dating from 1999 (86.11% of all opinions were delivered in 1999)**.

It must also be taken into account that the drafting of opinions is not a long-lasting process. Therefore, the opinions that were being developed in 1997 and 1998 can be presumed to have been completed a short while after the period covered by the report (today, all the opinions dating from 1997 and 1998 have been finished), whereas the opinions dating from 1999 have already been or are currently being drafted.

3. Comparison between Proceedings Instituted at the Behest of Entrepreneurs, Associations or State Administration Bodies, and Proceedings Instituted Ex Officio

A comparison between proceedings instituted at the behest of entrepreneurs, professional and trade associations of entrepreneurs, the Croatian Government and state administration bodies on the one hand, and proceedings instituted ex officio by the Agency Director on the other, is displayed in Tables 8 and 9 and Figure 11.

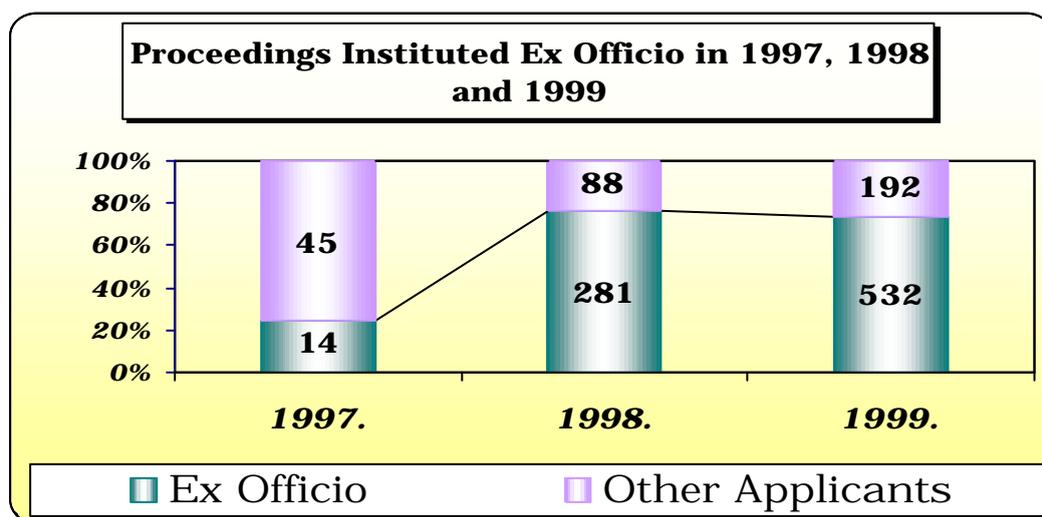
Table 8

Initiators of Proceedings in 1997, 1998 and 1999

APPLICANTS	1997	1998	1999	Increase in 1999 Compared to 1998
				(%)
Professional and Trade Associations of Entrepreneurs	3	17	12	-29.41%
Natural and Legal Persons	35	66	160	142.42%
Croatian Government and state administration bodies	3	5	20	300.00%
Agency Director Ex Officio	14	281	532	89.32%

Source: Agency for the Protection of Market Competition, Research and Statistics Department, 2000

Figure 11



Source: Agency for the Protection of Market Competition, Research and Statistics Department, 2000

Table 9 gives a list of entrepreneurs who submitted most applications for the initiation of proceedings in 1997, 1998 and 1999 (including professional and trade associations of entrepreneurs, the Croatian Government and state administration bodies - including the Agency for the Protection of Market Competition).

Table 9

APPLICANTS		
1	2	3
YEAR	NAME	No. of Applications
1997.		
	Croatian Institute for Health Insurance (HZZO)	20
	* The HZZO submitted 1 application, but 20 proceedings were initiated	
	Agency for the Protection of Market Competition	14
	Diona d.d.	5
	Kraš commerce d.o.o.	5
	Presecki-Bus d.o.o.	2
	Association of Private Shipping Companies of Croatia	2
	Fotex d.o.o.	2
	Meštrovic - Pregradatours d.o.o.	2
	Ministry of Agriculture and Forestry	2
1998.		
	Agency for the Protection of Market Competition	281
	Tvornica duhana Rovinj d.d. (Rovinj Tobacco Factory)	12
	Croatian Chamber of Craftsmen	9
	Seagram European Customer Services Ltd.	7
	DIC - Dubrovnik Information Centre	3
	Privredna bank d.d.	3
	Zagreb Association of Merchants	3
	Adriatic Insurance d.d.	2
	Ambassador Services	2
	Croatia Insurance d.d.	2
	Ecooperativa d.o.o.	2
	Euroherc Insurance d.d. - Zadar Subsidiary	2
	Jadransko Insurance d.d.	2
	Zagrebacka bank d.d.	2
1999.		
	Agency for the Protection of Market Competition (475 agreements)	574
	McDonald's Croatia d.o.o.	3
	Ministry of Finance - Financial Police	3
	Zagrebacka bank d.d.	3
	Belupo d.o.o.	2
	Croatian Farmers' Union	2
	Marimpex d.o.o.	2
	Pharmadent d.o.o.	2
	Presecki-Bus d.o.o.	2
	Zadar Tobacco Factory d.d.	2

Source: Agency for the Protection of Market Competition, Research and Statistics Department, 2000

Table 10 contains a list of entrepreneurs against whom proceedings were conducted before the Agency. Two facts should be mentioned here: 1) Tables 9 and 10 do not contain all other entrepreneurs who, or against whom, **only one application** was submitted; and 2) The proceedings were not necessarily conducted against

entrepreneurs, since they sometimes related to an assessment of an agreement, an assessment of a concentration or were simply an application for a preliminary expert opinion.

Table 10

PARTIES AGAINST WHOM PROCEEDINGS WERE INSTITUTED		
1	2	3
YEAR	NAME	No.of Applications
1997.		
	Croatian Post and Telecommunications d.d.	3
	Croatia Insurance d.d. - Šibenik Subsidiary	2
	Meštrovic-Pregradatours d.o.o.	2
1998.		
	Marin Getaldic d.d.	105
	Ghetaldus d.d.	95
	Diona d.d.	39
	HZZO	6
	Rothmans Ltd.	5
	Rovinj Tobacco Factory d.d.	5
	Europay International	4
	Zagrebacka bank d.d.	4
	Croatia Insurance d.d.	3
	Croatian Post and Telecommunications d.d.	3
	Privredna bank d.d.	3
	McDonald's Croatia d.o.o.	2
	Official Gazette, public company	2
	Phillip Morris Holland B.V.	2
	Portas Deutschland GmbH	2
	Smoki-Trade d.o.o.	2
1999.		
	C Card d.d.	269
	K-Kan d.o.o.	206
	Brodomerkur d.d.	14
	Croatian Telecommunications d.d.	7
	INA d.d.	6
	Zagrebacka bank d.d.	6
	Europay International	5
	Rovinj Tobacco Factory d.d.	5
	Croatian Radiotelevision, public company	3
	IPK Osijek d.d.	3
	Diners Club Adriatic d.d.	2
	ERSTE Bank AG	2
	HZZO	2
	Interbrew B.V.	2
	McDonald's Croatia d.d.	2
	Official Gazette, public company	2
	Vrelej d.o.o.	2

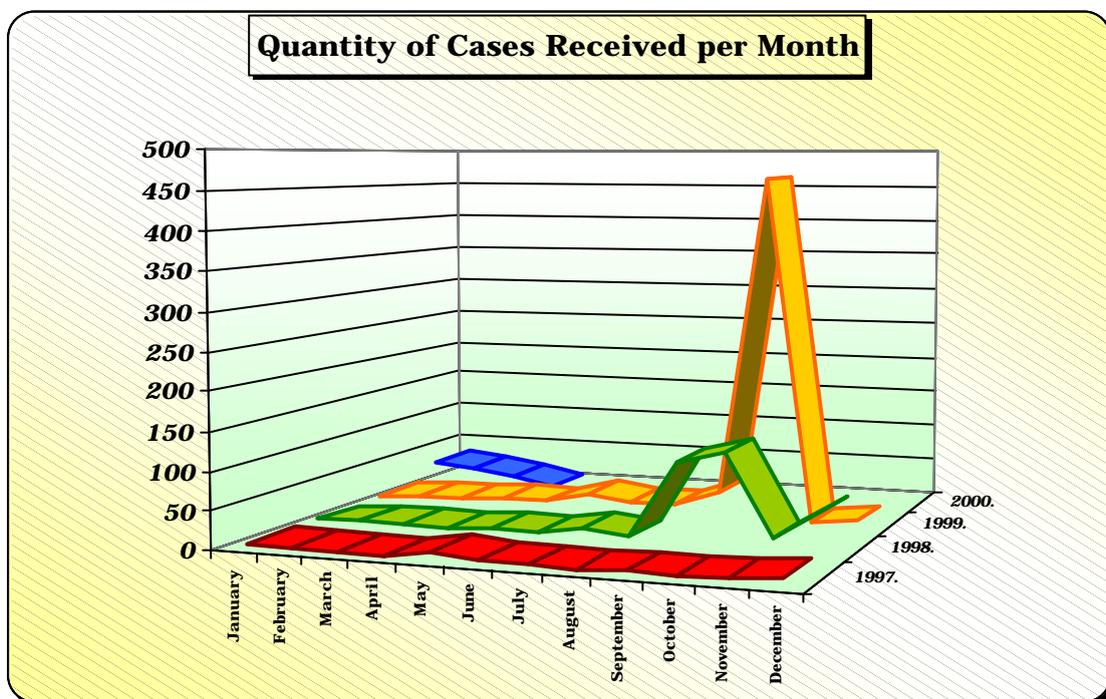
Source: Agency for the Protection of Market Competition, Research and Statistics Department, 2000

Tables 9 and 10 show that most proceedings were instituted ex officio by the Agency itself. Ever since its establishment, the Agency has instituted **827 proceedings** ex officio. The **most frequent applicants** include: the Croatian Institute for Health Insurance, Tvornica duhana Rovinj d.d., hauliers, insurance companies... On the other hand, most proceedings were instituted **against** Tvornica duhana Rovinj d.d., hauliers, Croatian Telecommunications, INA d.d., insurance companies, etc.

4. Chronology of Receipt of Cases per Month in 1997, 1998 and 1999

Figure 12 displays the chronology in which the Agency received cases per month in 1997, 1998 and 1999.

Figure 12



Source: Agency for the Protection of Market Competition, Research and Statistics Department, 2000

The average number of cases received per month in 1997 amounted to 4.58 cases, in 1998 to 31.33 cases and in 1999 to 60.33 cases.

The figures in September, October, November and December of 1998 and 1999 deviate considerably from the respective average figures, which is most probably due to annual vacations taken in July, August and September and the consequently reduced entrepreneurial activity. Nevertheless, the cases were processed throughout the year.

5. COURTS

Table 11 displays the proceedings instituted by the Agency before Petty Offence Tribunals and the High Petty Offence Tribunal, the proceedings instituted by parties against the Agency before the Administrative Court and the proceedings terminated before these courts.

Table 11

Proceedings Instituted and Terminated before Petty Offence Tribunals, the High Petty Offence Tribunal and the Administrative Court

1	2	1997		1998		1999		2000	
		3	4	5	6	7	8	9	10
Agency									
	Petty Offence Tribunal	2	2	16	4	9	3	3	0
	High Petty Offence Tribunal	0	0	1	1	2	0	0	0
Against the Agency's Decision									
	Administrative Court	1	0	18	0	6	0	2	0

Source: Agency for the Protection of Market Competition, Research and Statistics Department, 2000

Both of the proceedings instituted before Petty Offence Tribunals in 1997 ended with the Agency's withdrawal of the application to conduct proceedings.

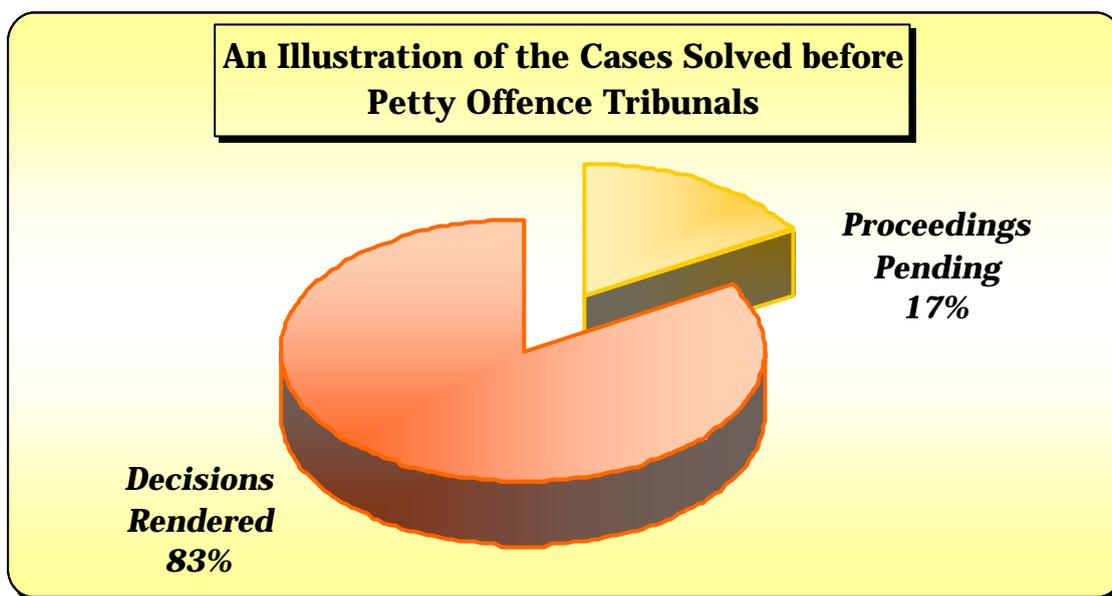
In 1998, the Agency instituted 16 proceedings before Petty Offence Tribunals, two of which ended with the Agency's withdrawal of the application for the conducting of proceedings, while the Petty Offence Tribunals rendered a decision in two cases. The Agency appealed to the High Petty Offence Tribunal against one decision rendered by a Petty Offence Tribunal, but the appeal was rejected. In another case, the Agency filed a motion for the protection of legality, but the state attorney declined it.

In 1999, the Agency instituted 9 proceedings before Petty Offence Tribunals, three of which ended with a decision. The Agency appealed against two Petty Offence Tribunal decisions and both are still pending.

In the **year 2000** (up until 13 April), the Agency instituted 3 proceedings before Petty Offence Tribunals, all pending.

A closer look at Table 11 will reveal that, since the beginning of its activity, the Agency has **instituted 30 proceedings before Petty Offence Tribunals, 9 of which have been brought to an end.** Petty Offence Tribunals **rendered decisions only in 5 cases**, while the Agency withdrew its claim in 4 cases (see Figure 13).

Figure 13



Source: Agency for the Protection of Market Competition, Research and Statistics Department, 2000

The Agency appealed to the High Petty Offence Tribunal against 3 Petty Offence Tribunal decisions. One of the appeals was rejected and the remaining two appellate proceedings are still pending.

In addition, 27 proceedings were instituted against the Agency's decisions before the Administrative Court, none of which have been brought to an end yet.

One of the main problems the Agency faces on a daily basis is the general ignorance of market competition law. In addition to the absence of the basic postulates of a market culture among Croatian entrepreneurs, there is the insuperable slowness of the Croatian justice administration. As a result, many proceedings instituted by or against the Agency have been pending for a long time before Petty Offence Tribunals, the High Petty Offence Tribunal and the Administrative Court.

In order to solve these problems, it is of paramount importance for Croatian judges to become acquainted with market competition law and case law. For this reason, the Agency organised a seminar called "Consultations on Competition Law" held in March 2000 with eminent economists and lawyers employed with the United States Department of Justice (USDOJ) and Federal Trade Commission (FTC) as guest lecturers.

It is to be emphasised that the Agency solves its cases by using the databases of European and American market competition case law, as well as through its correspondence with bodies responsible for competition in almost all European countries and in the United States - as the country with the longest tradition in market competition.

6. MEDIA COVERAGE OF THE AGENCY'S ACTIVITIES

1. In the period between April 1999 and 1 May 2000, the Agency published **8 regular official press releases** about the decisions taken by the Council for the Protection of Market Competition at its meetings, and **one extraordinary press release**.

2. In the period between April 1999 and 1 May 2000, **96 items on the Agency's activity were published**.

3. In this period, texts or other contributions on the Agency were published or broadcast by the following media: **Hina, HTV, Otvorena televizija, Hrvatski radio, Obiteljski radio, Radio 101, Otvoreni radio, Vecernji list, Vjesnik, Slobodna Dalmacija, Novi list, Jutarnji list, Glas Slavonije, Glas Istre, Zadarski list, and the specialised magazines Banka and Privredni vjesnik**.

4. In the period between April 1999 and 1 May 2000, **12 interviews with the Agency's Director, Prof. Deša Mlikotin Tomic, L.D.D.**, were broadcast and published by the following media: **HTV, Otvorena televizija, Hrvatski radio, Vjesnik, Vecernji list and Slobodna Dalmacija**.

5. Table 12 illustrates the coverage of the Agency's activities by the mass media in the period between April 1999 and 1 May 2000.

Table 12

	1997	1998	1 Jan.-1May 1999	1May 1999-1May 2000	TOTAL
1	2	3	4	5	6
Items od Coverage by the Mass Media on the agency	45	74	69	96	284
Interviews with the Director	13	18	9	12	52
TOTAL	58	92	78	108	336

Source: Agency for the Protection of Market Competition, Research and Statistics Department, 2000

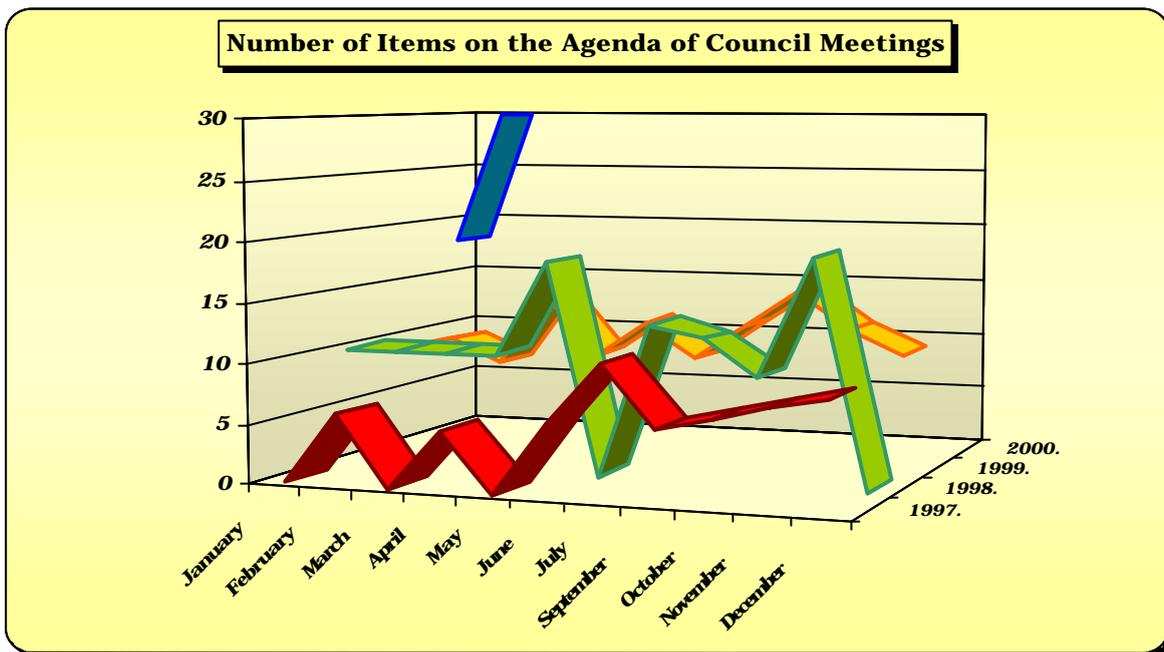
7. MEETINGS OF THE COUNCIL, CORRESPONDENCE, BUSINESS TRIPS AND ON-SITE INVESTIGATIONS

7.1 Meetings of the Council for the Protection of Market Competition

The **Council for the Protection of Market Competition** normally meets **once a month**. Since the Agency's establishment, the **Council has held 36 meetings**.

Figure 14 contains an overview of the meetings conducted by the Council and the items on the agenda at each of these meetings (**on average, there were 10 items on the agenda at the Council meetings**). **Table 13** contains the same information.

Figure 14



Source: Agency for the Protection of Market Competition, Research and Statistics Department, 2000

Table 13

YEAR	MONTHS											
	January	February	March	April	May	June	July	August	September	October	November	December
1997.	0	6	0	5	0	6	11	0	6	7	8	9
1998.	10	10	10	10	18	0	13	0	12	9	19	0
1999.	9	10	8	14	9	12	9	0	12	15	12	10
2000.	18	30										

Source: Agency for the Protection of Market Competition, Research and Statistics Department, 2000

***N.B.:** The Council does not meet in August because of annual vacations.

The past practice of the meetings of the Council for the Protection of Market Competition indicates that the number of items on the agenda is of no relevance for the efficiency of the

practice. There is no rule as to how many items can be tackled during one Council meeting.

However, at the end of 1999 and at the beginning of 2000, it became clear that the agenda could not be completed in a single Council meeting. Therefore, in order to analyse individual cases and take specific decisions, the meeting had to be resumed and held on several occasions during the same month.

7.2. Correspondence

If the figures contained in **Table 1** are taken into consideration, it can be concluded that the Agency instituted 724 proceedings in 1999. If this number is multiplied by the average number of incoming correspondence (**2.5** pieces per case), the figure of **1810 items of incoming correspondence** is obtained. Likewise, if the same procedure is applied to the average items of outgoing correspondence (**2.2** pieces per case), the figure of **1592 items of outgoing mail** is obtained.

When the obtained data are added up, the average number of incoming and outgoing items of mail per case reaches **4.7 pieces of correspondence**. Therefore, **in the period between February 1999 and April 2000 covered by the report, the Agency received and sent approx. 3,400 items of correspondence** relating exclusively to the resolution of cases.

7.3 Business Trips and On-Site Investigations

The data concerning business trips and on-site investigations will (hereinafter) relate only to trips and on-site investigations carried out in the country. Study trips, as the only opportunity for training professional staff, are excluded from the analysis.

In the year 1997, only six (6) business trips and on-site investigations were carried out, stretching over a period of **sixteen (16) days**, due to the fact that the Agency had only just been established at the time and had scarce funds.

In 1998, in view of the increased staff and the increased volume of cases, as many as twenty-nine (29) business trips and on-site investigations were carried out, accounting for **forty-nine (49) days** of business trips.

In the year 1999 and in the first two months of the year 2000, seventy-seven (77) business trips and on-site investigations were carried out. The reason for the increase, which is also true for 1998, is the increased number of experts in the field of the protection of market competition and a drastic increase in the number of cases.

8. THE BUDGET OF THE AGENCY FOR THE PROTECTION OF MARKET COMPETITION

The Agency's budget, its implementation, the resources returned to the budget and the net expenditure of the Agency are illustrated in **Table 14**.

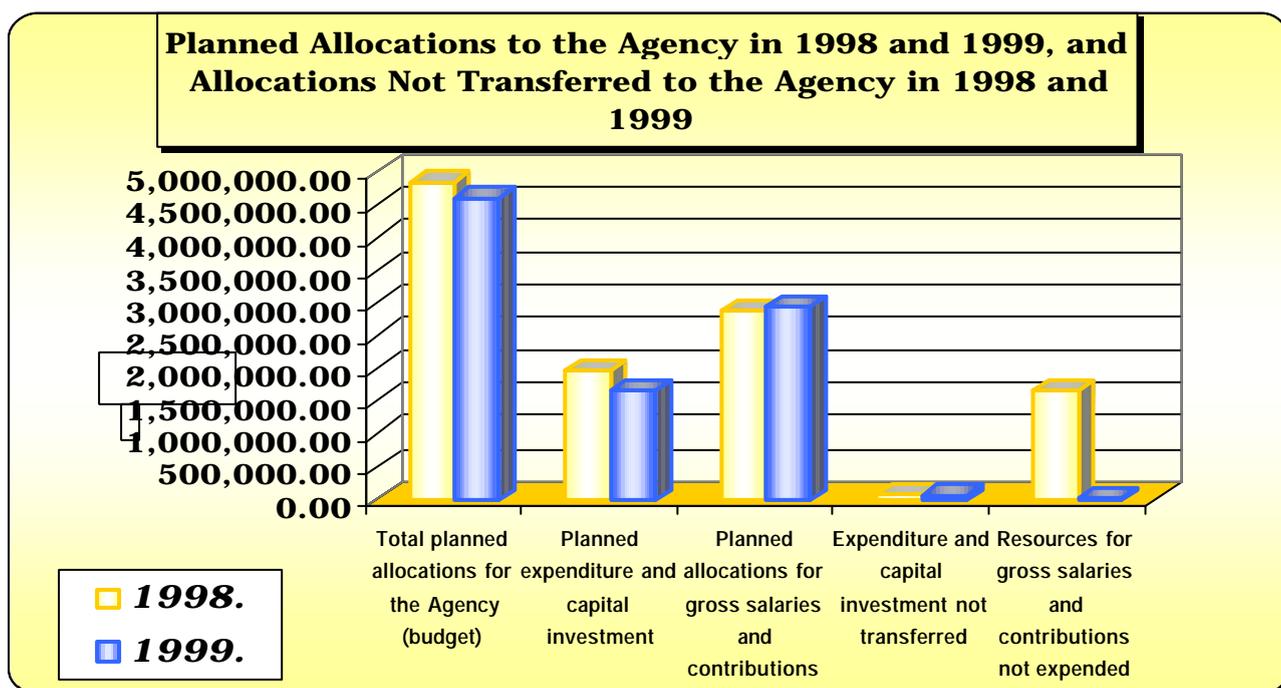
Table 14

No.	Type of Resources	Amount in '98	Amount in '99	Change in %
1	2	3	4	5
1.	Total planned allocations for the Agency (budget)	4,846,365.00	4,608,107.00	-4.92%
2.	Planned expenditure and capital investment	1,953,500.00	1,659,915.00	-15.03%
3.	Planned allocations for gross salaries and contributions	2,892,865.00	2,948,192.00	1.91%
4.	Expenditure and capital investment not transferred	90,397.86	71,678.21	-20.71%
5.	Resources for gross salaries and contributions not expended	1,661,670.21	14,959.92	-99.10%
6.	Total resources allocated from budget	3,094,296.93	4,771,571.20	54.21%
7.	Administrative taxes paid to the state budget	1,266,777.60	2,704,435.00	113.49%
8.	VAT	252,007.79	189,055.26	-24.98%
9.	Tax and surtax	414,493.06	769,095.54	85.55%
10.	Contributions assessed on salaries	414,573.16	1,002,065.38	141.71%
11.	2% for veterans (for the provision of housing)	0.00	33,710.72	
13.	Total resources transferred back to the budget	1,933,278.45	4,698,361.90	143.03%
14.	Net expenditure of the Agency	1,161,018.48	73,209.30	-93.69%

Source: Agency for the Protection of Market Competition, Research and Statistics Department, 2000

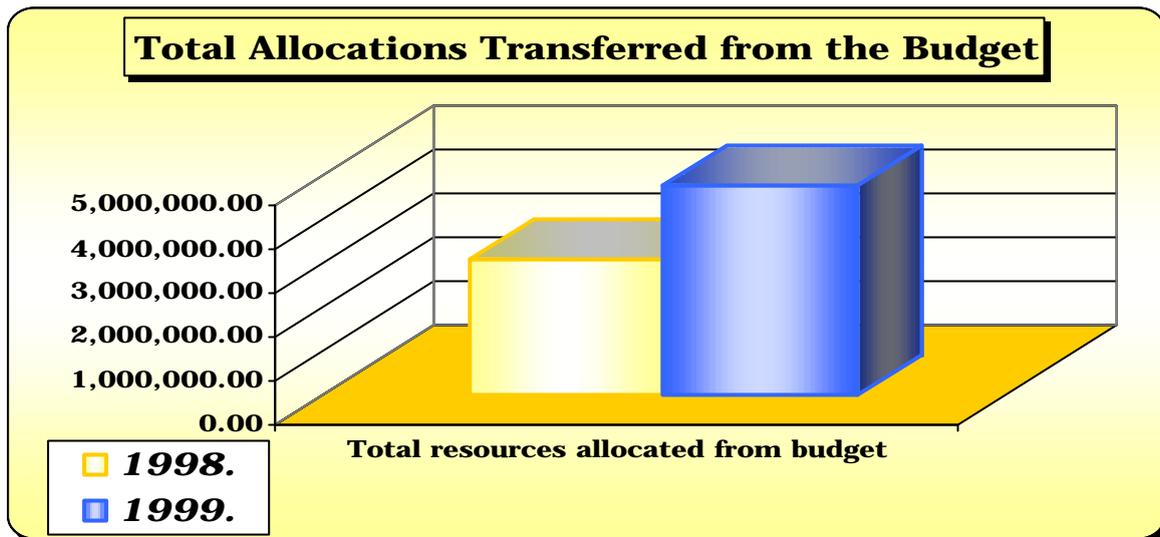
The same is displayed in **Figures 15 and 16**.

Figure 15



Source: Agency for the Protection of Market Competition, Research and Statistics Department, 2000

Figure 16



Source: Agency for the Protection of Market Competition, Research and Statistics Department, 2000

Table 15 contains an explanation of Figure 16. The same is displayed in Figures 17, 18 and 19.

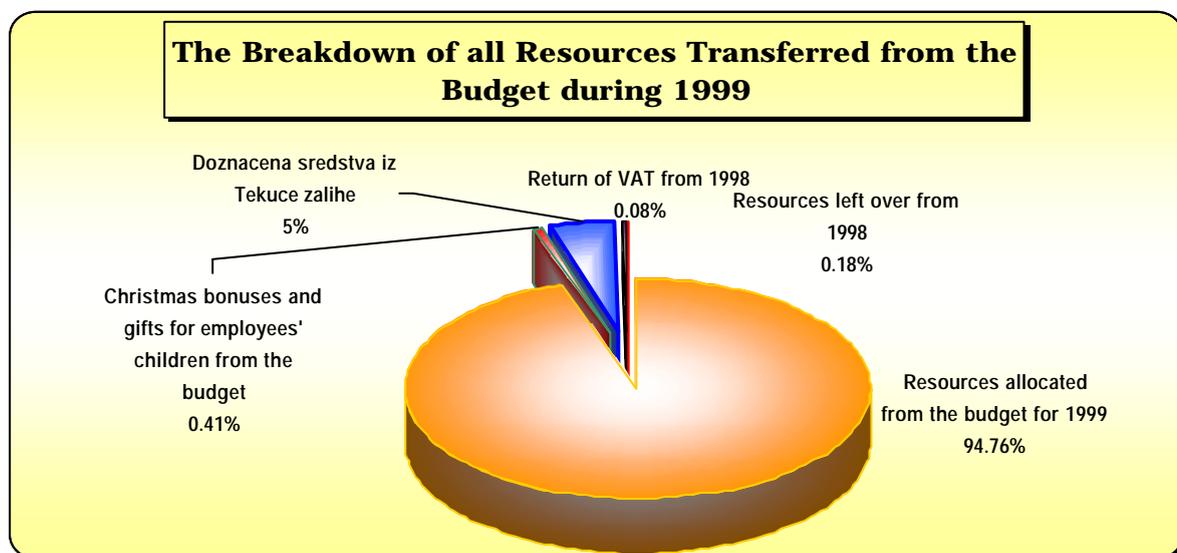
Table 15

The Breakdown of all Allocations Transferred during 1999

No.	Total allocations transferred from the budget during 1999	Amount
1.	Return of VAT from 1998	3,735.48
2.	Resources allocated from the budget for 1999	4,521,468.87
3.	Christmas bonuses and gifts for employees' children from the budget	19,600.00
4.	Resources transferred from the current reserve	218,170.58
5.	Resources left over from 1998	8,596.27
6.	TOTAL	4,771,571.20

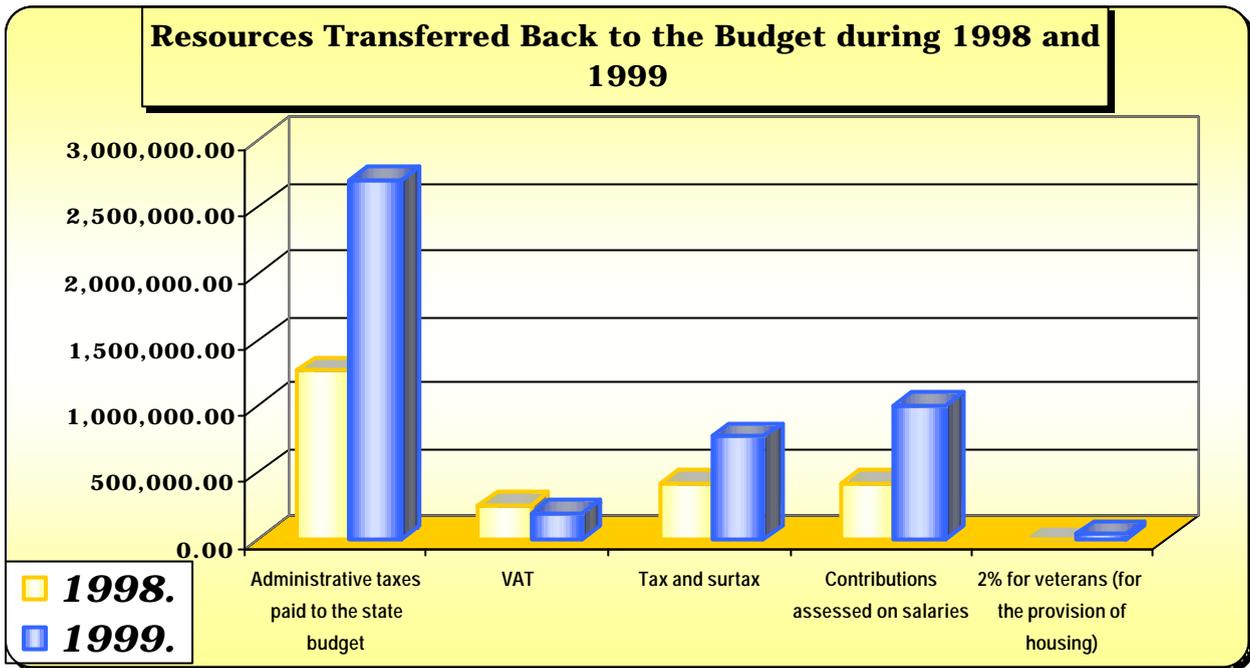
Source: Agency for the Protection of Market Competition, Research and Statistics Department, 2000

Figure 17



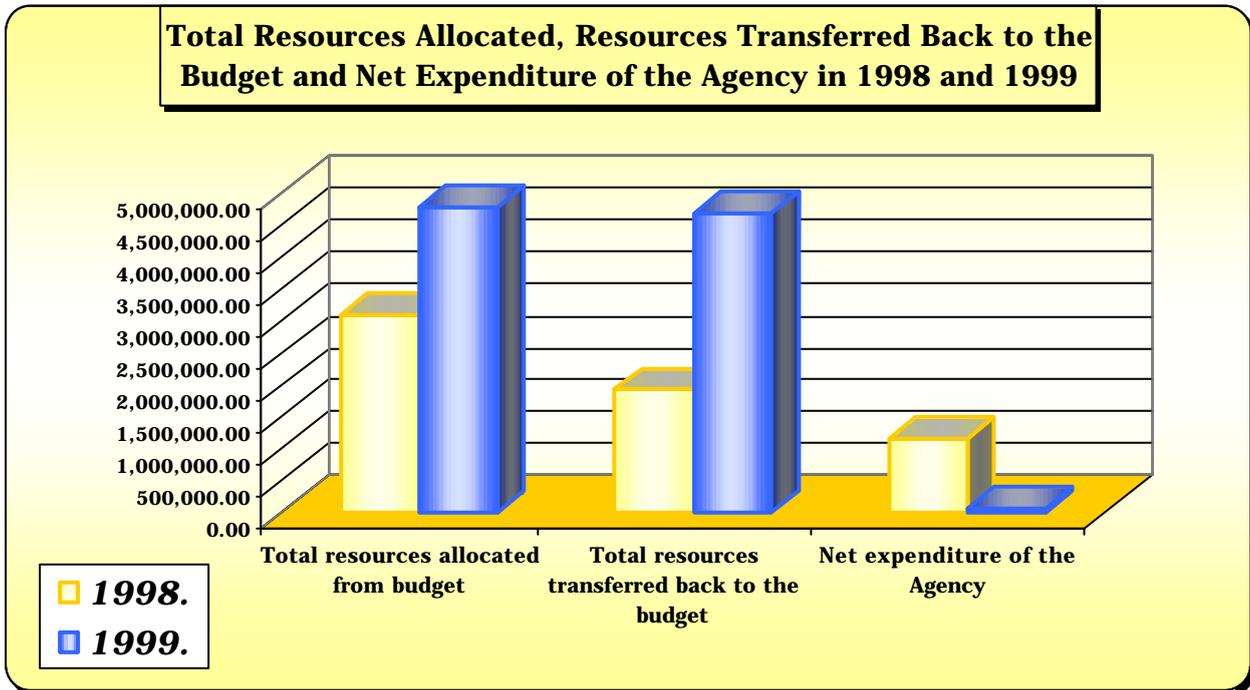
Source: Agency for the Protection of Market Competition, Research and Statistics Department, 2000

Figure 18



Source: Agency for the Protection of Market Competition, Research and Statistics Department, 2000

Figure 19



Source: Agency for the Protection of Market Competition, Research and Statistics Department, 2000

9. FINAL CONSIDERATIONS

The general trend of globalisation on markets around the world is also being felt in Croatia. Mergers and acquisitions on the Croatian market are most frequently prompted by two types of interests. One is the interest of entrepreneurs, especially banks and wholesale and retail trade chains, to protect themselves - before Croatia's participation in European and world integration - from the entry of powerful international corporations. The other is encountered with entrepreneurs that have less economic power or have financial difficulties, who try to save themselves from economic disaster and bankruptcy by finding strategic partners and investors abroad. In this way, they manage to survive on the Croatian market and even become competitive in the international sphere by boosting their export potentials.

The large numbers of proceedings that were instituted on the grounds of abuse of a dominant or monopolist position or because of the infringement of free market competition indicate that these issues pose a serious problem to the Croatian economy. The causes for such a state of affairs should be sought in the former system, which had deliberately turned many companies into monopolies, which in turn put such benefits to copious use. Moreover, before 1995, the Republic of Croatia did not have a state body or institution regulating and guiding the economy and economic policies towards free market competition.

The increase in the volume of cases initiated in 1999 is, compared to 1998, much lower than the increase of 1998 against 1997. It can be concluded that this was due to an unstable economic situation in the country, to the Croatian "banking crisis" and the war in 1999, all of which resulted in a deflection of foreign investors from Croatia in the period under review.

The current situation in the country indicates that Croatia has become very attractive to foreign investors. In view of Croatia's geographic, geopolitical and geo-strategic position, while keeping in mind the initiative to reduce interest rates to realistic and acceptable values, Croatia is likely to experience a sort of "boom" in the forthcoming period, a large injection of foreign capital which will probably lead to more infringements of free market competition, to more applications for concentrations and preliminary expert opinions... - in short - to an increased scope of activity of the Agency for the Protection of Market Competition of the Republic of Croatia.

Director

Prof. Deša Mlikotin Tomic, D.Sc.

APPENDIX I

THE REPORT ON INTERNATIONAL COOPERATION, ON DELIVERED OPINIONS RELATING TO LAWS AND RULES AND ON NON-ADMINISTRATIVE CASES IN THE PERIOD COVERED BY THE REPORT

INTERNATIONAL COOPERATION

1. COOPERATION WITH ICE; ITALIAN INSTITUTE FOR COMMERCIAL RELATIONS WITH COUNTRIES ABROAD

The Agency for the Protection of Market Competition established contacts with the ICE - the Italian Institute for Commercial Relations with Countries Abroad. The representatives of the Agency for the Protection of Market Competition (Ms. Mlikotin Tomic, Director, Mr. Cerovac, Deputy Director and Ms. Pavletic-Župic, Head of International Cooperation) met with the ICE representatives in the Republic of Croatia in order to arrange cooperation with the Italian agency for the protection of market competition. It was agreed at the meeting that the ICE would help the Agency to establish contacts with the Italian agency for competition and that a study visit to the Italian Agency would be arranged.

2. MINISTRY OF FOREIGN AFFAIRS; A SEMINAR ON INTERNATIONAL LAW; GENEVA, 3 MAY 1999

The Ministry of Foreign Affairs informed the Agency that the United Nations would organise a seminar on international law to be held in Geneva in May 1999. Having calculated the costs entailed by the attendance of the seminar, the Agency established that the expenses would be excessively high and, since the seminar was not strictly related to competition law, it was decided that the Agency should not attend.

3. THE WORLD BANK; A SEMINAR IN WASHINGTON IN DECEMBER 1998; REIMBURSEMENT OF COSTS

The file was delivered to the accounts department of the Agency for the Protection of Market Competition for further processing.

4. COOPERATION WITH HUNGARY

The Agency for the Protection of Market Competition was contacted by the Hungarian body for the protection of market competition. The Agency sent to the Hungarian counterpart the English translations of the Law on the Protection of Market Competition and of the Rules on how to Keep the Register on Concentrations. Arrangements were made with regard to the future cooperation.

5. COOPERATION WITH BULGARIA

The Agency for the Protection of Market Competition was contacted by the Bulgarian Commission for Competition. The Agency sent to the Bulgarian Commission for Competition the English translations of the Law on the Protection of Market Competition and of the Rules on how to Keep the Register on Concentrations. Arrangements were made with regard to the future cooperation.

6. WTO, GENEVA, APRIL 1999; WORKING GROUP ON INTERACTION BETWEEN TRADE POLICY AND COMPETITION POLICY AND LAW

The Director of the Agency attended a meeting of the World Trade Organisation Working Group on Interaction between Trade and Competition Policies, held in Geneva in April 1999. At the meeting, the Director acquainted the representatives of the WTO member countries with competition law in the Republic of Croatia.

7. COOPERATION WITH ITALY

Having established cooperation with the Italian Agency for Competition, representatives of the Agency, namely, the Director, Deputy Director and Adviser, paid a two-day working visit to the Italian Agency on 14 and 15 June 1999. During the visit, the Agency representatives were acquainted with the organisational structure of the Italian Agency. The two agencies seized the opportunity to exchange information on cases currently examined by them, with particular reference to the problem of regulating the system of public utility management, and arranged further contacts between these two Agencies. In the framework of their visit to Italy, the Agency representatives participated in a meeting at the Embassy of the Republic of Croatia in Rome and informed the Ambassador of their cooperation with the Italian Agency.

8. COOPERATION WITH FR GERMANY

Within the framework of its cooperation with the Cartel Service of the Federal Republic of Germany (Bundeskartellamt), the Agency sent a letter to the German Cartel Service asking for professional assistance in the assessment of the concentration of entrepreneurs WAZ and Tisak in the Republic of Croatia. The German side responded to the Agency's application for assistance and sent to the Agency an entire file relating to concentrations of entrepreneurs that had been assessed in Germany.

9. THE BRITISH KNOW-HOW FUND

The Agency for the Protection of Market Competition established contacts with the United Kingdom Know-how Fund. At the meeting held in the Agency's office, the representatives of the Know-how Fund met with the Agency Director and the Head of International Cooperation and discussed ways and opportunities of involving the Agency in projects of technical assistance relating to competition law and policy. The representatives of the Know-how Fund were informed of the specific cases where the Agency could participate in projects of technical assistance. The Agency introduced the Law and the Agency's regulations to the representatives of the Know-how Fund and informed them of the enforcement of the Law.

10. A CONFERENCE IN ATHENS, GREECE; 7-9 JULY 1999

The Agency for the Protection of Market Competition received an invitation to participate at the Conference on Business and Investment in the CIS countries. Due to insufficient funds, the Agency representatives were not able to take part in the conference. However, given the great importance of the topics at the mentioned conference and the fact that the issues to be discussed were related to the promotion of investment in the CIS member countries, the Agency sent written material to the conference containing a report on

competition law in the Republic of Croatia, since competition law is one of the crucial preconditions for any economic investment. The Agency's paper, entitled: "The Development of Efficient Capital Markets, with Special Reference to Developing Capital Markets and the Development and Application of Competition Law in Croatia", was included in the conference agenda.

11. UNCTAD - COMPETITION LAW AND POLICY, GENEVA, 7-9 JUNE 1999; AND THE WTO WORKING GROUP FOR COMPETITION LAW AND POLICY, 10-11 JUNE 1999

The Head of the Agreements Department and the Head of the International Cooperation Department of the Agency took part in the work of the UNCTAD Expert Group for Competition Law and Policy. They also participated in the subsequent meeting of the World Trade Organisation Working Group on Interaction between Competition and Trade Policies.

At the UNCTAD meeting, the representatives of the Agency for the Protection of Market Competition were informed of the latest UNCTAD reports on the application of the law for the protection of market competition in the member countries. The UNCTAD annual report on activities contained material with extensive reports on competition law in the Republic of Croatia, which had been delivered to the UNCTAD by the Agency.

At the meeting of the WTO working group for competition law and policy, the following fields were addressed:

The purpose of the meeting of the WTO working group, which is to continue working as a group, as laid down by the mandate of the General Council, pursuant to the decision of the General Council of December 1998 (no: WT/GC/M/32, p. 52);

The quoted decision embraced the following aspects that were discussed at the meeting:

The continuation of the working group's educational activities, launched on the basis of paragraph 20 of the Singapore Ministerial Declaration;

A discussion on issues relevant to the WTO member countries and relating to the interaction between trade policies and competition policies, including anticompetitive actions;

Focused discussions on the following issues:

The meaning of WTO fundamental principles concerning national treatment, the principle of transparency and the treatment of the most favoured nation, and how they affect competition law, and vice versa;

Different approaches to promoting cooperation and communication between WTO member countries on issues of competition, including the field of technical assistance;

A contribution to competition policy with a view to achieving WTO goals, including the promotion of international trade.

The working group continued its discussion, affirming the fact that development and relationships with investors must fully be taken into account.

In the above-mentioned discussions, the representatives of the WTO members expressed their support for mutual cooperation, with the aim of enforcing competition law and policies. However, the representatives of certain countries of the Far East (mostly the delegations from Hong Kong and India) were of the opinion that they could not support

mutual cooperation because its framework had not been defined and especially since Hong Kong did not even have a law defining issues related to competition.

Mention must be made of the important fact that the issue of cooperation was supported by the representative of the European Union.

However, the issue of cooperation - which prompted a major discussion at this WTO meeting - was seen in a somewhat different light by the representative of the United States of America (Federal Trade Commission and US Department of Justice). The US representative thought that mutual cooperation should be defined from the start, either as being educational in character, which the US would support, or involving an exchange of information in specific cases. The latter would, in his opinion, be subject to certain restrictions relating to confidentiality of information.

The US delegation informed the working group of the fact that, in the context of the previously discussed principles of transparency and cooperation, the bodies in charge of enforcing competition law (Federal Trade Commission and Department of Justice) had to distinguish between public information which could be available on the Internet, and confidential information which could be revealed to bodies for the protection of market competition only under the strict conditions defined in mutual agreements on cooperation. In specific cases, the information arising during investigation is of a confidential nature.

Furthermore, the delegation of Turkey informed the participants that it was preparing amendments to the Turkish law on competition, with the aim of integrating into the law the provisions contained in Articles 90 to 92 of the Treaty of Rome establishing the European Community. According to these provisions, government subsidies and public tenders should be placed under the authority of the body for the protection of market competition. Similar amendments had been prepared by the Romanian agency for the protection of market competition, in accordance with the provisions on harmonisation with the regulations of the European Union. The amendments to the Romanian law were drafted and revised by DG4 (General Directorate IV - for Competition Law) of the European Union.

Given their observer status, the representatives of the Agency for the Protection of Market Competition did not take part in the discussions. Instead, they informed the WTO Secretariat that the Republic of Croatia had enacted the Law on the Protection of Market Competition as early as 1995, integrating such WTO principles as transparency, especially pursuant to the latest amendments dating from 1998, including the principle of the equal treatment of domestic and foreign enterprises.

12. COOPERATION WITH THE REPUBLIC OF FRANCE

The Agency for the Protection of Market Competition established cooperation with the Council for Competition of the Republic of France.

Accordingly, the representatives of the Agency (the Director and the Head of the International Cooperation Department) met with the attaché for the economy and trade at the Embassy of the Republic of France in Zagreb. The purpose of the meeting was to arrange French technical assistance to the Agency in the form of an exchange of knowledge and information on competition law and its application in France, and the organisation of study visits by experts of both sides with the purpose of exchanging experience. The French side expressed its interest in such a form of cooperation, but

stressed that they could not obtain the necessary funds, since the source of financing such activities was the Phare Programme, of which Croatia was not a member.

However, in June 1999 a head of the French Council for Competition visited Zagreb and met with the Head of the International Cooperation Department of the Agency on 28 July 1999. At the meeting, they discussed some of the specific cases the Agency was dealing with at the time and the representative of the French Council for Competition spoke of their experiences in solving similar matters. Particular attention was given to cases from the sectors of public utility services, insurance and bank concentrations.

Furthermore, the representative of the French Council for Competition suggested that a seminar be held in Croatia on the issue of market competition and interaction with public services. The seminar would involve lecturers from France, Germany and other countries, while the participants would come from several European countries in transition.

The Agency handed to the French Council representative the English translation of the 1998 Report on Activities and subsequently received a report on activities from the French Council.

13. THE WORLD BANK; THE PROJECT OF THE JUSTICE ADMINISTRATION REFORM

Representatives of the World Bank had a working meeting with the Agency Director and the Head of the International Cooperation Department. The purpose of the meeting was to consult on competition law and its application in the Republic of Croatia, with the aim of integrating competition law in the project of the reform of justice administration, financed from a World Bank loan. At the time of the meeting, in May 1999, the project was at an early stage - a pilot project - which still had to provide some indications on how to organise a comprehensive project of reforming justice administration. The Ministry of Justice and Administration was the carrier of the project. The Agency submitted a written report in English. The Agency was due to be involved at a later stage in the project, especially with regard to the jurisdiction that the Administrative Court and Petty Offence Tribunals should have when proceedings are conducted before the Agency.

14. CEI-SEC; CENTRAL EUROPEAN INITIATIVE; WORKING GROUP MEETING, PRAGUE, 1-6 NOVEMBER 1999

The Agency Director was invited to take part in the meeting of the Working Group of the Central European Initiative (CEI-SEC), held in Prague from 3 to 6 November 1999. She was unable to attend the meeting due to insufficient funds.

15. THE PROGRAMME OF ECONOMIC COOPERATION WITH CENTRAL AND EASTERN EUROPEAN COUNTRIES

The Agency opened a file with the intention of monitoring the developments related to the launching of economic cooperation in Central and Eastern European countries.

16. THE US FEDERAL TRADE COMMISSION; OPINION ON THE LAW FOR THE PROTECTION OF MARKET COMPETITION

Within the framework of established bilateral cooperation with the US Federal Trade Commission, the Agency asked FTC experts to provide technical and professional assistance in the assessment of a particular concentration and abuse of a monopolist and dominant position in the tobacco industry. FTC experts responded to the Agency's application and established communication via the Internet, where FTC experts advised the Agency in writing on certain aspects of the concentration and the abuse of a monopolist and dominant position. They presented solutions that American practice had developed in similar cases.

17. THE EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT; STATISTICAL DATA ON THE AGENCY FOR THE PROTECTION OF MARKET COMPETITION

The European Bank for Reconstruction and Development (EBRD) approached the Agency for the Protection of Market Competition asking it to deliver a tabular report on the situation with regard to competition in the Republic of Croatia. The report was to be included in the EBRD record of the situation in the economies of EBRD member countries. The Agency drafted a detailed report covering the years of 1997 and 1998 and sent the English translations of the report and of the Law and regulations to the EBRD.

18. SIXTH ANNUAL CONFERENCE ON EUROPEAN COMMUNITY COMPETITION LAW IN BRUSSELS, 9-10 NOVEMBER 1999

The Agency received an invitation to participate in the work of the 6th annual conference on European Community Competition Law in Brussels, 9-10 November 1999. However, a lack of funds prevented the Agency from participating.

19. A SEMINAR ON LICENSING AGREEMENTS IN ACCORDANCE WITH EUROPEAN COMMUNITY LAW, 8-9 NOVEMBER 1999, TRIER, FR GERMANY

The Head of the International Cooperation Department and an intern in the Agency for the Protection of Market Competition participated in the work of a seminar organised by the Law Academy in Trier on the issue of licensing agreements in competition law. Their participation in the seminar was financed from the funds of the World Bank Loan for Technical Assistance, with the approval of the Croatian Ministry of Finance.

20. A WORLD BANK SEMINAR - COMPETITION LAW, MARCH 2000, SINGAPORE

The Agency for the Protection of Market Competition received an invitation from the World Bank to appoint two representatives to take part in the work of a seminar on competition law. However, the Agency could not be represented at the seminar due to the great distance of the venue and the consequent excessive expenses that participation would entail.

21.A WORLD BANK SEMINAR - GLOBAL REFORM AND PRIVATISATION OF PUBLIC COMPANIES, 22 AND 23 NOVEMBER 1999, WASHINGTON

The Agency for the Protection of Market Competition received an invitation from the World Bank to nominate one representative to take part in the work of a seminar on global reform and privatisation of public companies. However, the Agency could not be represented at the seminar due to the excessive expenses entailed by attendance, although public services are one of the most complicated fields for the Agency in assessing the abuse of a monopolist or dominant position.

22.A SEMINAR AND CONSULTATIONS ON COMPETITION LAW; FINANCED FROM A WORLD BANK LOAN

The Agency prepared and organised a seminar and consultations on competition law, financed from the World Bank Loan for Technical Assistance. The seminar was held in March 2000 in Zagreb, with the participation of American experts in the field of competition.

23.A SYMPOSIUM ON REGULATION AND COMPETITION, ITALIAN AGENCY FOR MARKET COMPETITION, ROME, 22 AND 23 SEPTEMBER 1999

The Head of the International Cooperation Department of the Agency attended the Symposium on Regulation and Competition, organised by the World Bank and the Italian Agency for Competition. Attendance at the Symposium was financed from the World Bank Loan for Technical Assistance, with the approval of the Croatian Ministry of Finance.

24.UNCTAD - DATA ABOUT THE AGENCY FOR THE PROTECTION OF MARKET COMPETITION

At the request of the UNCTAD Secretariat, and for the purpose of providing professional material to the UNCTAD Expert Group on Competition Law, the Agency developed a report on competition law in the Republic of Croatia and sent it to the UNCTAD Secretariat. The report was included in the collection of reports of UN member countries.

25.COOPERATION WITH THE ROMANIAN COUNCIL FOR COMPETITION - CONSULTATIONS ON ISSUES OF MARKET COMPETITION

Within the framework of its bilateral cooperation with Romania, the Agency was contacted by the Romanian Council for Competition. With the aim of exchanging experience, the Agency for the Protection of Market Competition sent to the Romanian Council copies of the Law and general regulations translated into English.

26.WTO, 4TH SYMPOSIUM ON COMPETITION LAW, GENEVA, 13 SEPTEMBER 1999

The Agency received an invitation from the WTO Secretariat to participate in the work of the 4th Symposium on Competition Law in Geneva. The Agency was unable to participate due to a lack of funds.

27. RUSSELL DAMTOFT, FTC, OFFER TO PARTICIPATE IN A SEMINAR

The Agency was contacted by a lawyer from the US Federal Trade Commission who discovered that the Agency would organise an International Seminar on Competition Law in Zagreb in March 2000. This person offered to participate in the Seminar.

28. BELGIAN EMBASSY - COOPERATION

At the request of the Ambassador of the Kingdom of Belgium in Zagreb, the Agency Director and the Head of the International Cooperation Department organised a meeting in the Agency's premises, where issues relating to the application of the Law on the Protection of Market Competition were discussed, particularly with regard to the notification of concentrations involving companies from Belgium.

29. OECD - A SEMINAR ON COMPETITION LAW, VIENNA, FROM 28 FEBRUARY TO 10 MARCH 2000

Upon the invitation of the OECD, the Agency for the Protection of Market Competition delegated two representatives to participate in the seminar on competition law, which is financed and organised every year by the OECD in Vienna. The seminar is intended for countries in transition which are not members of the OECD. A smaller part of the expenses incurred by the seminar was financed from the World Bank Loan for Technical Assistance.

30. SUBSCRIPTION FOR MAXWELL SWEET PUBLICATIONS FOR THE YEAR 2000

The file was forwarded for further processing to the Agency's accounts department.

31. COOPERATION WITH THE OECD COMPETITION LAW AND POLICY DIVISION

The Agency was contacted by the OECD Competition Law Division. The Agency responded to the OECD's application and sent a translation of the Law, regulations and its annual reports of activities to the OECD.

32. ASSOCIATION OF LAWYERS SPECIALISING IN COMPETITION: A SEMINAR IN LONDON, 21 FEBRUARY 2000

The Agency Director participated in the work of a symposium organised by the Association of Lawyers Specialising in Competition held in London on 21 February 2000. All the expenses related to her participation were covered by the British Know-how Fund with the Embassy of the United Kingdom of Great Britain.

33. OFFICE FOR EUROPEAN INTEGRATION - SEMINARS ON APPROXIMATION TO EU LAW

The Agency developed significant and intense cooperation with the Ministry for European Integration (then called the Office for European Integration) through the participation of several of the Agency's representatives in each of the one-day lectures on European Union law and structure, organised by the Ministry for European Integration. All the Agency's employees involved in the resolution of cases had the opportunity of participating in at least one of these seminars.

34. CARNET, UNGER CROATIA PROGRAM

The Agency received from CARNET, UNGER CROATIA PROGRAM, a report on professional training opportunities in the United States of America for experts in public administration. So far, these opportunities have not been exploited, due to scarce funds.

35. ELEANOR M. FOX - THE UNIVERSITY OF NEW YORK, COOPERATION

Professor Fox contacted the Director of the Agency. Since Professor Fox taught competition law at the University of New York, the Agency sent her the English translations of the Law, rules and the Agency's annual reports on activities in order to familiarise her with these issues.

36. INTERNATIONAL LAW IN THE NEW MILLENNIUM, 25-29 JULY 2000

The Agency received an invitation to participate in the Congress on International Law in the New Millennium. The decision to participate in this event was not adopted.

37. CHRISTIAN W. ZSCHABER, COLOGNE, COMPANY FOR POLITICAL AND ECONOMIC COUNSELLING

The Agency was approached by Mr. Zschaber from Cologne, FR Germany, who offered his services of political and economic counselling concerning the adjustment of the legal system to that of the European Union. The letter containing the offer was forwarded for information to the Ministry of Foreign Affairs and to the Ministry for European Integration.

38. COPPENS VAN OMMESLAGHE, LAWYERS FROM BRUSSELS, OPINION CONCERNING THE LAW ON THE PROTECTION OF MARKET COMPETITION

At the request of a law firm in Belgium, whose client - a Belgian entrepreneur - was planning to apply for a concentration in the Republic of Croatia, the Agency sent to Belgium a translation of the Law on the Protection of Market Competition and an opinion on the application of certain provisions of the Law with regard to the above planned concentration.

39. THE WORLD BANK - A TENDER FOR THE SELECTION OF CONSULTANTS

As a beneficiary of the World Bank's Loan for Technical Assistance, the Agency had the obligation to make an invitation for tenders for consultants, which was published in the

journal of the United Nations. A preliminary selection was made involving five companies, of which only one will be definitely selected. The process is under way.

40. CENTRE FOR THE INTERNATIONAL STUDY OF LAW, INTERNATIONAL REGULATIONS IN TELECOMMUNICATIONS, A SEMINAR, KAPRUN, AUSTRIA, 7-13 MAY 2000

The Agency received information on a seminar on legislation and regulations relating to telecommunications, organised by the Centre for the International Study of Law, to be held in Kaprun, Austria. Because of the high participation fee, the representatives of the Agency decided not to take part in this event.

41. OECD FORUM, PARTNERSHIPS IN A NEW ECONOMY, PARIS, 26-28 JUNE 2000

The Agency received an invitation from the OECD to send two Agency representatives as participants in the OECD Forum on the topic of Partnerships in a New Economy. The Agency submitted an application to the Ministry of Finance to authorise its participation, since the Agency can participate only if the costs are financed from the World Bank's Loan for Technical Assistance.

42. A SEMINAR ON THE TOPIC OF INTERNATIONAL REVISION ON COMPETITION LAW, LIDC - LEGAL INSTITUTE FOR THE DEVELOPMENT OF COMPETITION, PARIS, OCTOBER 2000

The Agency received an invitation from the LIDC to send two Agency representatives to participate in an international seminar on competition law to be held in October 2000. The Agency has not taken a decision to this effect yet, because of a lack of financial resources.

43. A PREPARATORY MEETING IN THE MINISTRY OF FOREIGN AFFAIRS CONCERNING THE MEETING OF THE EU-CROATIAN JOINT CONSULTATIVE WORKING GROUP IN BRUSSELS, 15 FEBRUARY 2000

In the framework of its cooperation with the Ministry of Foreign Affairs, in February 2000 the Agency started preparatory activities relating to the meetings of the EU-Croatian Joint Consultative Working Group in Brussels (15 February 2000).

44. EUROPEAN INTEGRATION - HARMONISATION OF LEGISLATION IN SOME PRIORITY AREAS OF THE INTERNAL MARKET, COOPERATION WITH THE MINISTRY FOR EUROPEAN INTEGRATION

Within the project of approximation to the European Union, the Agency cooperated intensely with the Ministry for European Integration. Thus, in the framework of the project for the European Union Fact-Finding Mission, the Agency cooperated in the subproject entitled "Harmonisation of Legislation in Some Priority Areas of the Internal Market". For the purpose of the project, the Agency developed several reports informing the Ministries of the Economy, Foreign Affairs and European Integration of the situation in the field of

market competition and presented the legal framework of market competition. The reports were forwarded to the European Union Commission for information.

45. OECD AND USAID MISSION, 21-29 FEBRUARY 2000, ZAGREB

In the period between 21 and 29 February 2000, the Agency hosted a joint OECD and USAID mission in Zagreb. Members of the mission were given a set of laws and rules concerning the protection of market competition and the 1997 and 1998 annual reports translated into English. In addition, during their stay at the Agency, members of the mission received statements of reasons on specific cases for which the Agency had conducted proceedings, their intention being to establish the extent to which the legislation and the application of laws and regulations governing the protection of free market competition had been developed in the Republic of Croatia. This OECD and USAID mission was a mission preceding the Stability Pact, especially since the affairs within the Investment Compact of the Stability Pact were assigned to the OECD and financed from USAID funds.

46. STABILITY PACT, INVESTMENT COMPACT, COOPERATION WITH THE MINISTRY OF THE ECONOMY, DIVISION FOR THE PROMOTION OF FOREIGN INVESTMENTS

On 24 February 2000, the Agency was engaged in the work of the Ministry of the Economy relating to the Stability Pact - the Investment Compact. At the request of the Ministry of the Economy, the Agency appointed the Agency Director Ms. Deša Mlikotin Tomic as a member to the Country Economic Team for cooperation on issues of the implementation of the Investment Compact, and Ms Mirna Pavletic Župic, as her deputy. The Agency delivered several reports on the situation with regard to the law and policy of free market competition and the application of the Law on the Protection of Market Competition, within the framework of the obligations to draft a report for the Stability Pact.

47. INTERNATIONAL SEMINAR AND CONSULTATIONS ON COMPETITION LAW, PRESENTATIONS BY AMERICAN EXPERTS FROM THE DEPARTMENT OF JUSTICE AND THE FEDERAL TRADE COMMISSION, ZAGREB, 13-17 MARCH 2000, ORGANISED BY THE AGENCY FOR THE PROTECTION OF MARKET COMPETITION

In the period between 13 and 17 March 2000, the Agency organised the International Seminar and Consultations on Competition Law, with eminent American experts from the US Department of Justice - Competition Division (USDOJ) and the Federal Trade Commission (FTC) as lecturers. The seminar was attended by advisers working for the Agency and representatives of the ministries of finance, the economy, foreign affairs, European integration, maritime affairs, traffic and communications, etc., representatives of the Commission for Securities, courts, Petty Offence Tribunals and the High Petty Offence Tribunal. Although invited, representatives of the Administrative Court did not participate in the work of the seminar. On this occasion, the Agency also invited representatives of bodies for the protection of market competition from the Russian Federation, the Republic of Slovenia, the Republic of Macedonia and Bosnia and Herzegovina. The seminar was organised by 3 employees of the Agency (the Head of International Cooperation Ms. Pavletic Župic, the Adviser Mr. Šafranko and the journalist Mr. Šikanic) without any surplus

expenses, including public relations. The seminar was financed from the World Bank loan. The entire budget of the seminar amounted to less than USD 10,000, including the expenses incurred by the lecturers.

OPINIONS ON LAWS AND RULES

48. Rules on the Professional Supervision of Crops of Agricultural Plants (The Official Gazette NN 26/99), adopted pursuant to the provisions of the Law on Seeds, Planting Material and Recognition of Agricultural Crop Species (NN 131/97).

According to the provisions of Article 2 of the above-mentioned Rules, seed crops of agricultural plants can be professionally supervised by a person having at least a university degree in crop-farming or a degree from a faculty of agriculture and at least three years' practical experience in this particular branch.

In addition, the Law on Seeds provides for a secondary school degree in agricultural studies as the minimum qualification for a salesperson in a shop selling packages of seeds weighing 250 g and planting material.

The opinion:

Since such shops are normally run by legal and natural persons registered for trade, their employees have to be trained in order to know, understand and use the instructions on the packages. Therefore, there is no need to reduce the number of persons who could compete for such jobs by imposing the additional requirement of professional qualifications.

49. LAW ON THE ESTABLISHMENT OF JP Narodne novine (The Official Gazette Plc)

Under the Law on the Establishment of JP Narodne novine, the exclusive right to print the official gazette and the official forms of the Republic of Croatia is held by JP Narodne novine.

The Council for the Protection of Market Competition offered a proposal, which was ultimately accepted, to amend the law with a view to letting JP Narodne novine keep the exclusive right to print the official gazette, while leaving the printing and publishing of official forms to free market competition and the choosing of a printing house through public tenders, for instance.

This argumentation was supported by the fact that the Law on the Transformation of JP Narodne novine into a joint-stock company (NN 128/99) left JP Narodne novine with the exclusive right only to print the official gazette.

However, certain provisions of the Rules on the Form, Contents and Use of Money Transfer Forms (NN 59/94) had not been abolished or amended. Thus, for instance:

Article 87 reads:

An institute, a bank or a post office shall not execute payment orders which are not printed by **an authorised printing house** and which are improperly filled in, illegible, incomplete or contain other elements not provided for.

Furthermore, Article 91 reads:

A participant in payment transfers may, without special approval by the Money Transfer Service, make arrangements with **an authorised printing house** of money transfer orders to print, for his/her own use, the name and the number of the account of the participant in

payment transfers in the box specifically designated for this purpose on the money transfer order.

The Agency was not requested to, and did not, pronounce an opinion on these Rules.

Meanwhile, the disputed provisions of the above mentioned Rules have been amended and Narodne novine d.d. is no longer an authorised printing house for money transfer orders.

50. LAW ON PUBLIC UTILITY MANAGEMENT- Opinions and proposals concerning the Draft Law Amending the Law on Public Utility Management

The Agency gave the following opinion on the above Draft Law:

The suggested amendments lack transparency and increase the costs entailed by the enforcement of the Law on Public Utility Management.

This applies, in particular, to Articles 18a, 18b, 18c, 19a, 19b, 19c, 19d, Article 20 (a new one) and Article 21 (a new one).

The Draft Law lacks any calculations of the communal fee, which would make it possible to compare the present fee with the fee based on the amendments to Articles 18 to 21 of the Draft Law.

Furthermore, the Agency's main criticism is addressed to the fact that local government continues to have a monopoly on the performance of all communal services referred to in Article 3 of the Law on Public Utility Management (ZKG).

In particular, according to Article 2 of the Draft ZKG, a legal or a natural person can perform a utility service on the basis of a service contract. However, such contracts are valid only for the services financed solely from the local government budget and therefore can be concluded only with local government and not with the users of utility services.

The amendments will not help to widen the range of entities authorised to provide utility services. The practice shows that local governments, if they have their own public utility company, do not invite tenders for the award of concessions. Therefore, they can hardly be expected to subcontract the provision of communal services to third parties.

Moreover, the Agency objected to Article 4 of the ZKG, specifically listing the entities authorised for the provision of utilities, in view of the fact that these utilities should be privatised in the near future and that concessions for some of these services should be gradually awarded to privatised entities.

The Agency suggested that Article 5 of the ZKG, granting public powers to legal persons providing utility services, should be deleted. This is because such entities are also the regulatory authorities of these utilities. They regulate the relations, render decisions in individual administrative proceedings, decide on the obligations and responsibilities of natural and legal persons and exercise other public powers.

It is also the Agency's opinion that the powers of a public utility company both to provide sanitation services and to manage communal waste refuse should be expressly separated by law.

The Agency also suggested that the price of a utility service provided on the basis of a concession should also contain the highest price, and not a fixed price, as well as the method of calculation and the mode of payment of the utility service.

The Agency's proposals concerning the Draft Law Amending the Law on Public Utility Management were delivered on 27 July 1999 to the Ministry of the Economy, the Ministry of Town Planning, Construction and Housing, the Government of the Republic of Croatia and the Office for Legislation of the Croatian National Parliament.

On 1 January 2000, the Law Amending the Law on Public Utility Management (NN 128/99) came into force.

51. THE DECISION CONCERNING THE PROVISION OF FUNERAL SERVICES AT THE CITY CEMETERY OF "Lovrinac", Split

In its letter dated 17 June 1999, the Constitutional Court of the Republic of Croatia asked for the Agency's opinion relating to the **Decision concerning the Provision of Funeral Services at the City Cemetery of "Lovrinac", Split.**

The above-mentioned Decision was adopted by the County Assembly of the Split-Dalmatia County at its 24th session held on 31 July 1996 and published in the "Official Journal of the Split-Dalmatia County" no. 7 of 31 July 1996.

The Association of Undertakers of Croatia, seated in Split, submitted a proposal to the Constitutional Court of the Republic of Croatia to initiate proceedings for a review of the constitutionality and legality of the Decision concerning the provision of funeral services taken by the Assembly of the Municipality of Split on 29 October 1992 ("Official Gazette" of the Municipality of Split, no. 9/92).

The latter Decision, which had been originally challenged, ceased to exist with the adoption of the new Decision dated 31 July 1996.

According to the new Decision, when a person having died in Split was also to be buried there, JKP Lovrinac from Split was the only entity authorised to provide funeral services and to maintain the grave.

In the case of the funeral being carried out outside Split, **other natural and legal persons authorised for the provision of funeral services were allowed to take over the dead bodies.**

Therefore, the above practice indicated that **the order contained in the Agency's decision (Official Gazette no. 19 of 25 February 1999) was already being executed in Split.**

The above-mentioned Decision brought to an end the proceedings instituted by the Agency at the request of the entrepreneur Tiha noc d.o.o., seated in Cavli, against the public utility company of Kozala d.o.o., seated in Rijeka.

JP KD Kozala d.o.o., which was 100% owned by the Town of Rijeka, allowed **only those concession holders** who were seated in the municipality where the funeral services were to be provided to take over the body of the person who had died on the territory of the Town of Rijeka. The company charged a very high fee for the delivery of the body, regardless of the family's request.

The concession holders in the Town of Rijeka did not have to pay the fee for the delivery of the body.

In its letter of 1 July 1999 addressed to the Constitutional Court of the Republic of Croatia, the Agency delivered its opinion qualifying such legal regulations as restricting or preventing entrepreneurs from providing funeral services, despite their being properly registered for these activities.

If the commercial part of these services were open, that is, if every natural or legal person authorised for the performance of funeral services were allowed to take over or transport corpses to the places of burial or cremation, service users would be free to choose the best service provider.

The activities relating to the maintenance of cemeteries and crematories should remain within the competence of public companies.

In a letter of 17 September 1999 addressed to the Constitutional Court of the Republic of Croatia, the Agency sent its Opinion and Proposal relating to the Draft Law Amending the Law on Public Utility Management.

At its meeting held on 19 September 1999, the Constitutional Court of the Republic of Croatia rendered a ruling and a decision abolishing the disputed provisions of Article 3, paragraph 1, Article 6, paragraphs 1 and 2, and Article 7 of the Decision dated 31 July 1996.

The abolished provisions were invalidated on 1 January 2000.

52. THE CUSTOMS ACT (NN 78/99) - The Decree on the Enforcement of the Customs Act (NN 144/99)

The provision of Article 87 point 7 of the Decree on the Enforcement of the Customs Act reads as follows:

"The printing of customs declaration forms shall be authorised by the Director of the Customs Administration and the classification number of the authorisation shall be printed out on every copy of the form."

Pursuant to the above provision, the Director of the Customs Administration granted the above authorisation to one printing house only, namely: the Agency for Commercial Activity (hereinafter: ACA), owned by the Republic of Croatia, thus excluding other printing houses from the form-printing market.

The forms of the single customs declaration (hereinafter: SCD) are forms used by importers and shippers. They are not "official forms" and bear no protection, their printing is not financed from the budget, they do not bear the state stamp and do not require an invitation for tenders under the Law on the Supply of Goods and Services and Contracting of Works (NN 142/97).

Previously, the printing services had been provided by several entrepreneurs.

In this way, the provisions of Article 7 paragraph 1 point 6 and Article 20 paragraph 9 of the Law on the Protection of Market Competition were violated.

Accordingly, the Agency's opinion was sent to the Government of the Republic of Croatia. The Director of the Customs Administration was requested to reply on the matter.

53. LAW ON TOBACCO

(Official Gazette no. 69/99) - Articles 10, 12 and 25;

- Regulations based on the challenged legal provisions (published in the Official Gazette no. 3/2000);

Rules on keeping the Register of Manufacturers and on the Requirements for the Manufacturing of Tobacco Products

Rules on keeping the Register of Brands of Tobacco Products and the Register of Importers and Exporters of Tobacco and Tobacco Products

In its letters dated 14 February 2000 and addressed to the Government of the Republic of Croatia, Ministry of Agriculture and Forestry and the Ministry of the Economy, the Agency for the Protection of Market Competition delivered its opinion concerning several provisions of the **Law on Tobacco** (hereinafter: LT) and the provisions of regulations adopted by the Ministry of Agriculture and Forestry. The latter regulations provided in more detail for the activities of the manufacture, processing and sale of tobacco, including the manufacture of tobacco products (**Rules on keeping the Register of Manufacturers and on the Requirements for the Manufacturing of Tobacco Products, and Rules on keeping the Register of Brands of Tobacco Products and the Register of Importers and Exporters of Tobacco and Tobacco Products**).

Certain provisions of the above-mentioned regulations were not in keeping with the basic principles of free market competition and with the provisions of the Law on the Protection of Market Competition. Moreover, these rules were designed with a view to **placing only one entrepreneur**, namely, **Tvornica Duhana Rovinj d.d.**, seated in Rovinj, that is, members of the Tvornica Duhana Rovinj concern, **in a more favourable position in the market compared to its present and future market competitors.**

More specifically, the provisions of these rules disrupted free market competition by **restricting or preventing access to the market** of the manufacture, processing and trade of tobacco, including the manufacture of tobacco products, to all market competitors of the Tvornica Duhana Rovinj concern, both present and future.

In this respect, there follows below a brief overview of the disputed restrictive provisions contained in the mentioned rules, adopted by the **Ministry of Agriculture and Forestry** (hereinafter: **MAF**).

The Law on Tobacco contains **basic regulations** granting authority to the MAF to pass regulations providing for the manufacture, processing and trade of tobacco, including the manufacture of tobacco products. According to **Article 10 point 7, a contract on tobacco manufacturing**, concluded between a tobacco manufacturer (a tobacco-grower) and a tobacco processor (buyer and primary processor of tobacco leaf) must contain **a statement by the tobacco manufacturer to the effect that he/she has not concluded a contract on tobacco manufacturing with another tobacco processor for the same farming land.** This particular provision is restrictive and constitutes a **flagrant violation of**

Article 7 of the Law on the Protection of Market Competition, because - regardless of the subject-matter of the contract - it prevents a tobacco manufacturer from selling some of the stock to another tobacco processor, thereby restricting access to the market or excluding from the market all entrepreneurs who are not parties to the agreement).

According to Article 25 of LT, **the Ministry of Agriculture and Forestry issues, on the written request of a manufacturer of tobacco products, a decision establishing whether a given entrepreneur fulfils the requirements for the performance of the activity.**

The latter requirements are contained in the **Rules on Keeping the Register of Manufacturers and on the Requirements for the Manufacturing of Tobacco Products** (hereinafter: **Rules on Requirements**). Under Article 23 of the Rules, manufacturers who **were producing cigarettes on the date the LT came into force** are required **merely to harmonise** their manufacturing conditions **with the Rules** within one year. There were two such cigarette manufacturers: **Tvornica Duhana Rovinj d.d. and Tvornica Duhana Zagreb, d.d.**, both members of the same concern.

However, **legal persons who were not manufacturing cigarettes on the date the LT came into force** were required to **obtain a decision from the MAF allowing them to pursue the activity**, otherwise the Commercial Court would refuse to register their cigarette manufacturing activity in the court register.

The above applied to the manufacturer **Tvornica Duhana Zadar d.d.**, in which the majority shareholding was held by **British American Tobacco Plc**. This entrepreneur terminated its cigarette manufacturing activity in 1995, but was still registered in the register of the Commercial Court as pursuing the above activity.

Such a provision was discriminatory and constituted a direct obstacle to Tvornica Duhana Zadar d.d., preventing its access to the cigarette manufacturing market. Although Tvornica Duhana Zadar d.d. was registered as a cigarette manufacturing entity at the time the LT came into force (13 July 1999), it was nevertheless required to obtain a decision from the MAF before resuming its cigarette manufacturing activity, unlike the members of the Tvornica Duhana Rovinj d.d. concern which had the advantage of only having to harmonise their manufacturing conditions with the Rules within the prescribed period of time.

On the other hand, according to the provisions of the **Rules on Keeping the Register of Brands of Tobacco Products and the Register of Importers and Exporters of Tobacco and Tobacco Products** (hereinafter: **The Rules on Brands**), the MAF would appoint a **Commission and designate a Laboratory.**

The Register of Brands is kept by the Ministry of Agriculture and Forestry.

For a cigarette brand to be registered, a manufacturer has to submit an application to the MAF to **establish the characteristics of the tobacco blend** in the cigarettes for the purpose of classifying them into **Group A or Group B.**

The MAF would entrust **the analysis and the establishment of tobacco characteristics**, which serve as the basis for the classification of cigarettes into groups A or B, to a legal person who has at its disposition a **laboratory** for the analysis and establishment of tobacco characteristics. According to the Agency's information, such a laboratory was

possessed only by **TD Rovinj d.d. and Duhanski Institut d.d.**, the latter seated in Zagreb and apparently in the process of being taken over by the TD Rovinj concern (its services had previously been used by TD Zagreb).

Analytical methods would be determined by a **Commission appointed by the MAF at the proposal of the economic interest grouping of the tobacco industry**. On the basis of these methods, the Commission would **establish the group to which the examined brand of cigarettes belongs** and would suggest to the MAF that a decision be issued granting registration into the Register.

The Commission had **seven members**. However, according to the Agency's information, **most of the Commission members had direct connections of interest with the Tvornica Duhana Rovinj concern**, thus making the Commission dependent on the concern. This was particularly important with regard to the fact that the classification of cigarettes into particular groups had a **direct impact** not only **on the possibility of placing cigarettes on the market of sale**, but also **on the very price of individual cigarette brands**.

Therefore, the above-mentioned provisions of the **Law on Tobacco, the Rules on Requirements and the Rules on Brands** directly enabled the entrepreneur **Tvornica Duhana Rovinj d.d.** and the companies which were members of the Tvornica Duhana Rovinj concern, as well as the companies in which the concern had a dominant influence within the meaning of the Law on Companies and other regulations, **to strengthen their existing dominant position on the market** of the manufacture, processing and trade of tobacco and to **maintain its present monopolistic position on the market** of the manufacture and sale of cigarettes, by blocking access to the market of the manufacture and sale of cigarettes to all present and future market competitors. This raised the issue of opportunities for foreign investors, particularly in activities related to the tobacco industry.

All this was **contrary to the basic principles of free market competition, to the provisions of the Law on the Protection of Market Competition and to Article 49 of the Constitution of the Republic of Croatia**.

Therefore, the Agency for the Protection of Market Competition sent to the Ministry of Agriculture and Forestry **an initiative to invalidate the disputed rules and to adopt new rules, harmonised with the Law on the Protection of Market Competition**.

54. LAW ON JADROLINIJA

Pursuant to the Law on Jadrolinija d.o.o., Rijeka (the official gazette "Narodne novine" no. 11/96), the sailing timetable shall be supervised by the Ministry of Maritime Affairs, Traffic and Communications.

An opinion rendered by the above-mentioned Ministry on 9 August 1999 stated that, apart from the 1999 sailing timetable, the 1999 Tariff for the Transportation of Passengers and Vehicles in Local Shipping Lanes was also approved, in which the relevant Minister approved a 20% price increase by abolishing the previously existing discount rates.

On 4 October 1999, the Agency sent an opinion on the matter to the Ministry of Maritime Affairs, Traffic and Communications, maintaining that second thought should be given to such a price increase brought about by abolishing commercial discounts, particularly in view of the forthcoming tourist season.

Furthermore, the increase should affect equally all shipping lanes.

Lastly, a price increase introduced in this particular manner restricted access to the market, affected the development of the economy, the economic standard of the population living on the islands and the willingness of tourists to use these services in the tourist season.

55. LAW ON VETERINARY MEDICINE

According to Article 2 of the Statute, **HVK is an association of the veterinarian profession covering graduate veterinarians (doctors of veterinary medicine), with or without the right of public activity.**

Members include **retired veterinarians**, as well as veterinarians who are **foreign nationals**, regardless of whether their place of residence is in the Republic of Croatia.

On the basis of **Article 10 indent 16, Article 19, indent 5 and Article 52 indent 1** of the above-mentioned **Statute and Article 106 paragraph 3 points 1 and 4 of the Law on Veterinary Medicine**, the HVK established a **Network of veterinary organisations, private practices and veterinary services in the Republic of Croatia.**

The system of the Network is based on the established territorial structure of local administration and local self-government and therefore an **epizootiologic unit** covers the area of a municipality (in accordance with the provisions of Article 2 point 11 of the Law on Veterinary Medicine), whereas an **epizootiologic area** covers the territory of a county or the City of Zagreb.

On the basis of the above-mentioned **Network** and pursuant to **Article 83 paragraph 4** of the Law on Veterinary Medicine, **the HVK issues a preliminary opinion concerning the establishment of a veterinary organisation, a private veterinary practice or a veterinary service by legal persons in the business of cattle-breeding.**

The above establishments can start to operate (paragraph 5 of the same Article) on the basis of a **decision attesting the fulfilment of prescribed requirements with regard to the arrangement of facilities, premises, veterinary equipment and professional staff**, as provided for by the subsequently adopted **Rules on Requirements Relating to the Arrangement of Facilities, Veterinary Equipment and Professional Staff to be Fulfilled by Legal and Natural Persons Pursuing the Veterinary Occupation (NN 136/98).**

The delivery of a preliminary opinion is not a public power vested in the HVK (Article 106, paragraphs 2, 3 and 4 of the Law on Veterinary Medicine). The opinion is not a public document, but an administrative act.

The Network of Veterinary Organisations, Private Practices and Veterinary Services in the Republic of Croatia is contrary to the provisions of the Law on the Protection of Market Competition.

This is because the epizootiologic areas and units match the territorial structure of local administration and self-government. An owner or a holder of an animal, or of animal produce, has the obligation to respect the territorial jurisdiction of a legal person, even if another legal person situated in the territory of another local self-government unit is geographically closer or offers cheaper services.

Moreover, it has been established on the basis of Article 10 paragraph 1 point 17 of its Statute that the **HVK also sets the policy of prices and determines the minimum cost of work for a graduate veterinarian**, which constitutes a flagrant violation of the provisions of the Law on the Protection of Market Competition prohibiting any agreements concerning prices.

56. RULES ON PRICES OF SERVICES of the Croatian Chamber of Architects and Civil Engineers

RULES ON PRICES OF SERVICES (NN 85/99) were adopted on the basis of **Article 9 paragraph 1 and Article 22 of the LAW ON THE CROATIAN CHAMBER OF ARCHITECTS AND CIVIL ENGINEERS** (NN 47&98; hereinafter: The Law) by the Assembly of the Croatian Chamber of Architects and Civil Engineers.

Article 9 of the Law provides for the following (quote):

1) **The Assembly** of the Chamber shall:

- **adopt the Statute and other general regulations** as provided for by the Law and Statute,
- set the registration fee and the membership fee,
- adopt the Code of Professional Ethics of Authorised Architects and Civil Engineers...

Article 22 paragraph 1 of the Law provides for the following (quote):

The Assembly of the Chamber shall, after consulting the opinion of every division and with the consent of the Ministry, **set the prices for its services and adopt rules concerning the prices of its services (hereinafter: Rules)**.

Having examined the Law and the Rules, the Agency established that **the Chamber is not authorised under the Law to adopt Rules on the Prices of Services for the services that are commissioned** directly with the service providers, that is, **engineers and architects, whose membership in the Chamber is obligatory** under Article 1 paragraph 2 of the Law.

The only authorisation given to the Chamber by the Law is contained in the quoted Article 22 paragraph 1 to the effect that **the Assembly of the Chamber shall set the prices for its services and adopt rules** (only for these particular prices).

In order to ensure the quality of the works contracted, **the Assembly of the Chamber** laid down a provision in Article 4 paragraph 3 of the Rules to the effect that the remuneration for the service delivered shall be defined **within the range of the lowest and highest remuneration rates**.

Accordingly, members of the Chamber have to set the price for the work commissioned within the **upper and lower boundaries of the price**, which allows for **only the partial** exercise of free market competition.

Therefore, the above-mentioned **Rules were not adopted on the basis of the provisions of Article 22 of the Law on the Croatian Chamber of Architects and Civil Engineers**.

In addition, the provisions of Article 4 paragraph 3 of the Rules constitute **an agreement on prices, which is contrary to** the provisions of Article 7 paragraph 1 point 1 and paragraph 2 of the Law on the Protection of Market Competition (NN 48/95, 52/97 and 89/98).

57. MINISTRY OF THE ECONOMY

THE STRATEGY OF ENERGY DEVELOPMENT IN THE REPUBLIC OF CROATIA BY THE YEAR 2010

At the request of the Ministry of the Economy submitted on 5 March 1999, the Agency developed an expert opinion concerning a document forwarded for approval to the Government of the Republic of Croatia, entitled "The Strategy of Economic Development in the Republic of Croatia".

The above-mentioned opinion of the Agency contained an interpretation of different aspects of the application of market competition law and policy, with regard to one of the macroeconomic factors in the energy sector.

58. THE DECISION OF THE GOVERNMENT OF THE REPUBLIC OF CROATIA CONCERNING THE REQUIREMENTS FOR WHOLESALE TRADE AND FOREIGN TRADE IN CERTAIN GOODS

At the request of the Constitutional Court of the Republic of Croatia of 18 March 1999, the Agency produced an expert opinion explaining the effects of the above Decision, in view of the possible restrictions of access to the market and other anticompetitive elements.

In fact, by banning the sale of textile products if these originate from imports or from wholesale, while allowing their sale if they are manufactured by the entrepreneurs who sell them, the above Decision did restrict access to the market to a certain group of entrepreneurs who sell textile products on stands at marketplaces.

On the basis of a constitutional complaint lodged by a group of entrepreneurs with the Constitutional Court of the Republic of Croatia, the Constitutional Court applied to the Agency for its opinion. **The Agency stated that the above Government Decision blocked free access to the market to entrepreneurs selling textile goods which were not manufactured by them.**

Accordingly, the Agency suggested that the Constitutional Court should abolish these provisions. The Constitutional Court accepted the Agency's opinion and abolished the quoted provisions of the Decision.

59. LAW ON TELECOMMUNICATIONS

At the request of the Government of the Republic of Croatia dated 10 May 1999, the Agency drafted an opinion concerning a Bill on Telecommunications.

The above-mentioned opinion contained different regulatory aspects of the telecommunications service on the Croatian market, with special reference to free market competition. The Bill on Telecommunications contained provisions granting authority to the Telecommunications Institute to act in certain situations with a view to protecting free market competition in the telecommunications market. According to the Agency's opinion, the mentioned provisions of the Bill did not exclude the competence of the Agency in the sector of public services, as provided for in paragraph 4 of the Law on the Protection of Market Competition which was harmonised with Article 90(2) of the Treaty establishing the European Community (Treaty of Rome).

60. RULES CONCERNING TRAIN-THE-TRAINER PROGRAMME/PROGRAMME FOR TEACHERS OF ENTREPRENEURSHIP

At the request of the Government of the Republic of Croatia dated 25 June 1999, the Agency produced an opinion relating to the Rules concerning Train-the-Trainer Programme/Programme for Teachers of Entrepreneurship, which were published in the official gazette "Narodne Novine" of 18 June 1999.

The Agency's opinion on the Rules confirmed that they did not contain elements which would restrict free market competition.

The above Rules were adopted by the Minister of the Economy, on the basis of Article 39 of the Law on the State Administration System (NN 75/93) and in accordance with the Procedural Decision adopted by the Government of the Republic of Croatia on 6 May 1999 accepting the elements of the policy on small businesses.

61. THE PROGRAMME OF EXAMINATIONS FOR THE PURPOSE OF GAINING AUTHORISATION TO PERFORM THE ACTIVITIES OF MEDIATION AND REPRESENTATION IN INSURANCE

On 17 November 1999, the Agency sent an opinion relating to the above Programme to the Ministry of Finance, on the basis of Article 30, paragraph 2 points 4 and 6 of the Law on the Protection of Market Competition.

The Agency suggested that the Ministry of Finance, which had adopted the above-mentioned regulations, include into the Programme the teaching of regulations concerning the protection of market competition.

**NON-ADMINISTRATIVE PROCEEDINGS - MONITORING
ENTREPRENEURS AND MARKETS**

PRIVATISATION AND INVESTMENT FUNDS

BREZA-INVEST, Varaždin
PBZ-NOVCANI FOND, Zagreb
EXPANDIA FOND d.d., Zagreb
DOM FOND d.d., Zagreb
SREDIŠNJI NACIONALNI FOND d.d., Zagreb
SLAVONSKI PRIVATIZACIJSKI INVESTICIJSKI FOND d.d.
SUNCE d.d., Zagreb
PLETER d.d.
VELEBIT d.d.

MERGING, ANNEXING AND CONNECTING OF COMPANIES

PURCHASE OF TEXTILE COMPANIES IN CAKOVEC
BENETTON, Italy and MIO-STANDARD, Osijek
RIJECKI LIST d.o.o. Rijeka and NOVI LIST
BJELOVARSKA BANKA d.d., Bjelovar and ERSTE BANK, Austria
TRGOVACKA BANKA d.d., Zagreb and ERSTE BANK, Austria
IREKS GmbH, Germany and IREKS AROME d.d., Zagreb
VJESNIK d.d., Zagreb and PAN-PAPIRNA INDUSTRIJA, d.o.o., Donji Andrijevc
INA-PLINOVO
FIDUCIA d.o.o. and NAŠICE CEMENT d.d., Našice
VEDRAN ŠKULIC and NARODNI LIST d.d., Zadar
JADRAN TURIST d.d. and ZAGREBACKA BANKA d.d., Zagreb and WILFRIED
HOLLIES
PLIVA d.d. Zagreb and MEDIKA d.d., Zagreb - LJEKARNE PRIMA PHARMA
HELIOS OSIGURANJE d.d.

CAPITAL MARKETS, CREDIT CARD BUSINESS, INSURANCE MARKETS

HRVATSKA UDRUGA BANAKA (CROATIAN ASSOCIATION OF BANKS)
EUROPAY INTERNATIONAL and SPLITSKA BANKA d.d., Split
VISA INTERNATIONAL and BJELOVARSKA BANKA d.d., Bjelovar
DINERS CLUB ADRIATIC d.d. and BUDGET CAR RENTAL
AMERICAN EXPRESS and BRITISH AIRWAYS
K-KAN d.o.o. - WIZARD CARD
C CARD d.d., Zagreb - DISCOUNT CARDS
NCR I mr. MATIJA MARIC - CASH DISPENSERS
Mr. JOSIP TOMAŠIĆ, Rijeka - OSIGURAVAJUCA DRUŠTVA (INSURANCE
COMPANIES)
THE PROGRAMME OF EXAMINATIONS FOR THE PURPOSE OF GAINING
AUTHORISATION TO PERFORM THE ACTIVITIES OF MEDIATION AND
REPRESENTATION IN INSURANCE

OTHER

ELECTRONIC MEDIA/TELEVISION MARKET
PRICES OF TRAIN/BUS STATION SERVICES
STATE BUREAU OF INTELLECTUAL PROPERTY - SYMPOSIUM - CROATIAN
SYSTEM OF PROTECTION OF THE ORIGIN BILL
CITY OF ZAGREB - PASSENGER TRANSPORTATION BY TAXI
FRANCHISING ASSOCIATION OF CROATIA
MINISTRY OF JUSTICE - THE MEDIA MARKET
ASSOCIATION OF WORKS CONTRACTORS-ENGINEERS
CROATIAN CENTRE FOR VEHICLES AND CROATIAN AUTO-CLUB
CROATIAN CHAMBER OF COMMERCE - PRICES OF TICKETS
HRVATSKA ELEKTROPRIVREDA - PRICE OF ELECTRICITY
FOREIGN CHAINS OF STORES
PROPOSAL OF THE CONCEPT OF REGIONAL ECONOMIC DEVELOPMENT OF THE
REPUBLIC OF CROATIA
SIGURNOST, Osijek
IPK MIA d.o.o. Osijek and MEGGLE - MONITORING
HEL.PET d.o.o.
RULES ON MINIMUM PRICES OF ARCHITECTURAL DESIGN SERVICES
PHARMACIES - NETWORK OF HEALTH CARE SERVICES
TRADE ASSOCIATION OF INVESTIGATION AND SECURITY AGENCIES (CROATIAN
CHAMBER OF COMMERCE AND A GROUP OF SECURITY AGENCIES)
CHAINS OF STORES - MONITORING
ZAGREB PARKING - PRICE OF PARKING
LEO GROUP INC. AND MAC MANUS GROUP INC.
MARKET OF NEWSPAPER PUBLISHERS IN THE REPUBLIC OF CROATIA
CROATIAN ASSOCIATION FOR THE PROTECTION OF CONSUMERS AND J.P.
NARODNE NOVINE - TYING PURCHASE
HRVATSKA ELEKTROPRIVREDA d.d. Zagreb - PUBLIC TENDER
VARKOM d.d. Varaždin - CONSTRUCTION OF WATER SUPPLYING PIPELINES
BOSILJKO MLIKOTA - RECOGNITION OF A PATENT
EUROPACK - LABELLING REGULATIONS
AGENCY FOR MONEY TRANSFERS - CHARGING INFORMATION ON TRANSFER
ACCOUNT BALANCE
KRAUS d.o.o. and KBC RIJEKA - ACCESS TO MARKET
PONIKVE d.o.o., Krk - HOTELS ON THE ISLAND OF KRK
MELODIES OF THE CROATIAN ADRIATIC - ACCESS TO MARKET
MOL, Hungary - PETROL STATIONS
INA - PRICES OF PETROLEUM PRODUCTS
INA - DIESEL FUELS

COOPERATION BETWEEN THE AGENCY AND OTHER STATE INSTITUTIONS

CROATIAN CHAMBER OF COMMERCE
CUSTOMS ADMINISTRATION
AGENCY FOR MONEY TRANSFERS
STATE BUREAU OF STATISTICS
CROATIAN NATIONAL BANK
COMMISSION FOR SECURITIES
MINISTRY OF FINANCE

MINISTRY OF FOREIGN AFFAIRS

MINISTRY OF THE ECONOMY

MINISTRY FOR EUROPEAN INTEGRATION

STATE AGENCY FOR BANK REHABILITATION

STATE AGENCY FOR DEPOSIT INSURANCE

CROATIAN PRIVATISATION FUND

DIRECTORATE FOR THE SUPERVISION OF INSURANCE COMPANIES