

CCA accepted committments offered by water supply and sewage operator

By 12 December 2014 Vodoopskba i odvodnja d.o.o. committed itself to change the General and technical conditions for the provision of water services adopted on 19 July 2013.

The Croatian Competition Agency (CCA) adopted a decision accepting the committments offered by the undertaking Vodoopskba i odvodnja (VIO) relating to installation of water meter and telemetry devices (water meter reading network) in the old buildings.

In March 2014 the CCA opened the proceeding regarding the alleged abuse of a dominant position by the undertaking concerned in the provision of public water service which produces effects on the provision of services involving water meter and telemetry devices installation and the measurement of water consumption providing data for billing and reporting, in the territory of Zagreb, Samobor, Sveti Nedjelja and the municipality of Stupnik. The CCA opened the proceeding based on the provisions of the General and technical conditions (GTC) that had been adopted by VIO in July 2013 that introduced the obligation regarding the existing inside water meters in old buildings which are to be connected with the automatic water meter reading network (AWMR network). AWMR is a system of long distance reading which VIO has only started to introduce in the old buildings. In other words, this is the market on which VIO has not been present so far.

On the basis of the GTC provisions regulating the provision of water services regarding the obligation on the basis of which the existing inside water meters in old buildings must be connected in the AWMR network, VIO banned the undertakings which until than had been engaged in the installation of water meter and telemetry devices and reading and billing of the water consumption data so collected, to install inside water meter and telemetry devices in old buildings as of 1 January 2014, foreclosing thereby the market to potential new competitors. In addition, on 1 January 2014 a transitional five-year-period started in which these undertakings would be still allowed to perform only the distant readings from local networks, whereas upon the expiration of this transition period the distant reading would be exclusively provided by VIO.

In the sense of competition policy the above practice cannot be recommended nor is it justifiable on the account of the fact that once liberalised market is being re-regulated and foreclosed where there are no concrete indicators.

For the reasons stated above, in the course of the proceeding CCA also imposed an interim measure ordering the undertaking VIO to temporarily cease-and-desist the application of the challenged provisions under the GTC that prevent the undertakings from the provision of services which they had been discharging before the challenged provisions entered into force and preventing final consumers from freely choosing the provider of the services concerned.

Within the proceeding VIO offered on its own initiative the committments aimed at restoring effective competition in the *provision of services involving water meter and telemetry devices* installation and the measurement of water consumption providing data for billing and reporting, thereby bringing its monopolistic position caused by the adoption of the said GTC to an end. In other words, VIO offered to delete the challenged GTC provisions and to revise in detail other GTC provisions, which means the restoration of the provisions in force before the disputable GTC provisions had been adopted. Thus, VIO would open the market to alternative providers and enable free entry for possible new operators in the market concerned. At the same time,

this would ensure the consumers – users of the services involving inside water meters reading and billing – free choice of service providers.

Formally, the CCA accepted the above commitments made by VIO given that the commitments were submitted after the opening of the proceeding but before the statement of objections was issued. Second, the commitments offered by VIO represent a voluntary act of the undertaking concerned eliminating the possible anticompetitive effects of the challenged GTC provisions.

On the basis of a separate decision the CCA revoked the interim measure taking into account that by the adoption of the decision on the acceptance of the commitment it became purposeless.