

Class: UP/I 034-03/2014-01/005

Case: CCA v Peugeot Hrvatska d.o.o., Zagreb

- proceeding for the establishment of distortion of competition - abuse of a dominant position
- summary of decision on extension of interim measure

I. Pursuant to Article 51 paragraph 1 of the Competition Act, OG 79/2009 and 80/2013 the Croatian Competition Agency (CCA) may initiate the proceedings against an undertaking and make a decision adopting interim measures in case of urgency due to the risk of serious and irreparable damage to competition and particularly on the basis of a prima facie finding of infringement of the competition rules.

Previously, the CCA initiated a proceeding in line with the decision of the Competition Council in its 23/2014 session of 3 July 2014, procedural order UP/I 034-03/2014-01/005, Reg.no: 580-05/63-2014-010, against the undertaking Peugeot Hrvatska d.o.o., with its seat in Zagreb, Buzin, Bani 75, for the establishment of prevention, restriction or distortion of competition based on the alleged abuse of a dominant position within the meaning of Article 13 of the Competition Act, OG 79/2009 and 80/2013 in the following relevant markets: the provision of repair and maintenance services for motor vehicles of the car make Peugeot in the territory of the Republic of Croatia and the sale of spare parts for motor vehicles of Peugeot car make in the territory of the Republic of Croatia, based on the indices in accordance to which Peugeot Hrvatska applied the Selective criteria in a non-transparent manner when it, as an authorised distributor for Peugeot cars, decided to accept or include certain distributors or repairers in the network after 31 December 2013, whereby it applied dissimilar conditions to equivalent transactions with other undertakings, thereby placing them at a competitive disadvantage, in other words, that it unjustifiably denied access to the relevant markets concerned to the undertaking Auto Maksimir d.o.o., with its seat in Zagreb, Kraljevićeva 24.

Thus, on 3 July 2014 the CCA also adopted a decision on an interim measure, Class: UP/I 034-03/2014-01/005, Reg.No: 580-05/63-2014-011, on the basis of which the CCA ordered the undertaking Peugeot Hrvatska to give access to the undertaking Auto Maksimir to the authorised repairers network and ensure that it enjoys all the rights and obligations under the agreement concerned, which includes access to any technical information, diagnostic and other equipment, tools, including any relevant software, as well as purchase of new outdoor company logos and other brand identification elements. Furthermore, Peugeot Hrvatska was ordered to inform in writing all the buyers, leasing and insurance companies that Auto Maksimir remains the authorised repairer of the car make Peugeot, whereas the evidence that this order has been obeyed should be communicated to the CCA.

In this particular case the CCA found that by excluding the undertaking Auto Maksimir from the authorised repairers network of the Peugeot make there is a risk of serious and irreparable damage to competition which is likely to cause substantial harm to the consumers given that the undertaking concerned has been a long-year provider of repair services for Peugeot motor vehicles.

The duration of the interim measure concerned was six months from the date of the receipt of the CCA decision on the interim measure.

II. The CCA decision on the interim measure was received by Peugeot Hrvatska on 14 July 2014. The duration of the interim measure thus expired on 14 January 2015.

Given the unchanged circumstances in which the interim measure was imposed in the first place, the Competition Council decided at its 1/2015 session on 9 January 2015 to extend the duration of the interim measure imposed on the undertaking Peugeot for further six months, within its powers under Articles 30 and 31 of the Competition Act and in line with Article 51 paragraph 3 of the Competition Act. The Competition Council based its decision on the reasoning that it is necessary to keep Auto Maksimir in the authorised repairers' network of the car make Peugeot taking into account the risk of serious and irreparable damage to competition which is likely to cause substantial harm to the consumers and given the fact that the undertaking concerned has been a long-year provider of repair services for Peugeot motor vehicles.