

Case: CCA v Ipsos puls d.o.o., Split;  
Collective initiative by a group of undertakings alleging abuse of a dominant position  
Class: UP/I 034-03/2015-01/028  
Type of decision: Decision on dismissal of the initiative

On 23 October 2015 the Croatian Competition Agency (CCA) took a decision on the basis of which it dismissed the initiative made by a group of undertakings: Zagrebački radio plavi 9 d.o.o., Radio Trsat d.o.o., Miroslav Kraljević d.o.o., Radio Brod-Informiranje i Marketing d.o.o., Vanga d.o.o., Media centar d.o.o., Kult Radio d.o.o. and HIT FM d.o.o. (all engaged in radio broadcasting), against the undertaking Ipsos puls d.o.o. from Split, due to the lack of grounds for the initiation of an ex officio proceeding.

The claimants basically found in their initiative that the phone call survey method used by Ipsos puls in measuring radio audiences was questionable, given the fact that phone calls are basically used for measuring of TV viewers ratings, web page hits and readers ratings, dailies and magazines readership and the last on the list, radio tune-in. In addition, the claimants argued that these phone surveys may take as long as forty minutes, which means that the surveyed gets tired at the end of the survey when questions on radio preferences are asked. This is why they challenged the quality of such a survey. What is more, the claimants stated that these surveys are conducted on fixed phone lines and exclude the employed whereas, on the other hand, the radio ratings data so obtained may be obsolete and used repeatedly later on.

On the other hand, the claimants suggested that Ipsos puls should conduct the survey separately for radio ratings, which would make the surveys shorter and more effective and accurate relating to the outcomes.

The preliminary market investigation showed that there is no objective reason why Ipsos puls would put into a more favourable position a certain media and discriminate the other, given that it does not decide which media an undertaking would use to promote its own products or services. This business decision is taken freely by every individual undertaking on its own or in collaboration with an advertising agency. Actually, both the undertakings and the advertising agencies that use Ipsos services should be most interested in the change of the measurements methods that are used by the undertaking Ipsos in the case of doubt with respect to the quality or accuracy of its method.

Taking everything into account it has been established that there are no indices for the opening of proceeding against the undertaking concerned given the fact that its behaviour in the market raises no competition concerns in the sense of Competition Act and Article 13 thereof regulating the abuse of a dominant position.