

Class: UP/I 034-03/21-01/001

Reg.no: 580-10/63-2021-012

Zagreb, 22 July 2020

- Initiative relating to alleged distortion of competition

Decision: Initiative dismissed due to lack of standing to act

Case summary:

On 4 February 2021 the Croatian Competition Agency (CCA) received a complaint filed electronically by [...] for the initiation of the infringement proceeding against [...], [...], [...], and undertakings [...], [...], [...], [...] and [...], regarding alleged prevention, restriction and distortion of competition. After having carried out a preliminary market investigation the CCA dismissed the initiative of the complainant due to lack of standing to act within the meaning of the Competition Act, in line with Article 39 of the Competition Act by applying Articles 8 and 13 of the Competition Act.

In the case concerned the CCA found that in line with its powers laid down under the Competition Act the CCA is not empowered to act in this concrete case.

Namely, the Competition Act applies exclusively to undertakings - companies, traders, association of undertakings, tradesmen and craftsmen and other legal and natural persons who are engaged in a production and/or trade in goods and/or provision of services and thereby participate in an economic activity, state authorities and local and regional self-government units where they directly or indirectly participate in the market and all other natural or legal persons, such as associations, sports associations, institutions, copyright and related rights holders and similar, who are active in the market.

Consequently, where [...] and [...] scrutinize the work of travel agencies in line with the powers under the separate law, they cannot be considered undertakings in the sense of the Competition Act given the fact that they are not active in the market.

With respect to the allegations against [...] in this concrete case there has been no circumstantial evidence of infringement within the meaning of the Competition Act.

The scrutiny of the work of [...] falls outside the powers of the CCA.

Similarly, the CCA is not empowered to handle the dispute between the complainant [...] and [...] and [...] regarding the use of the photographs published on the website of [...].

Relating to the use of USB token and the behaviour of the internet provider and the behaviour of certain undertakings all listed by the complainant, the CCA found that the allegations concerned fall outside its powers under the Competition Act.

Finally, where the complainant claims the existence of a cartel between certain actors, the CCA indicated that cartel means an agreement or concerted practice between two or more competitors operating at the same level of the production or distribution chain. In this particular case this is not the case, what is more, some of the alleged cartel members cannot even be defined as undertakings in the sense of competition rules. Therefore, there has been no restrictive agreement in the sense of Article 8 of the Competition Act.

Taking everything mentioned above the CCA dismissed the initiative of the complainant due to lack of standing to act within the meaning of the Competition Act.