

Class: UP/I 034-03/18-04/002

Reg.no: 580-16/123-2021-030

Zagreb, 30 December 2021

## **CCA vs. Narodni trgovački lanac (NTL) d.o.o., Sesvete**

**- Unfair trading practices**

**- Decision on termination of the proceeding**

### **Case summary:**

After having conducted a random investigation into the agri and food market in the sense of application of the Croatian Act on the prohibition of unfair trading practices in the business-to-business food supply chain (UTPs Act), the Croatian Competition Agency (CCA) opened an ex officio infringement proceeding against Narodni trgovački lanac d.o.o. from Sesvete (NTL) within the meaning of the UTPs Act with the view to establishing whether this re-seller used its superior bargain power and imposed unfair trading practices on its supplier D.M.I. SRL G, regarding particularly the content and the implementation of the purchase agreement nr. 209/2018 between this re-seller and its supplier of 1 April 2018 with the view to establishing whether the provisions concerned complied with the UTPs Act that started to fully apply on 1 April 2018.

In the course of the investigation the CCA found certain unclear provisions under the purchase agreement regarding the monthly rebates for annual minimum purchases that could raise concerns with respect to the use of strong bargaining power and constitute unfair trading practices and therefore, on 29 June 2018 it opened the infringement proceeding against the re-seller NTL.

After having established that with respect to the turnover threshold NTL constitutes a re-seller with a strong bargaining power and after having received further explanations regarding the challenged provisions of the purchase agreement, i.e. the invoiced discounts or rebates and the related fees, as well as the proposed commitments to eliminate the unfair trading practices that had been subsequently submitted by NTL, the CCA found based on its decision of 21 September 2018 that the proposed remedies had not been sufficient to eliminate the unfair trading practices and decided to carry out the investigation in line with Article 18 paragraph 5 of the UTPs Act.

In short, the CCA continued to follow the circumstantial evidence regarding the implementation of the purchase agreement concerned with respect to the challenged provisions including the bonuses for purchased banana volumes, special discounts and payment details. Within the meaning of the above-mentioned Article 18 paragraph 5 the CCA found that the proposed remedies were unsatisfactory for the elimination of unfair trading practices, notified the party thereof and continued the investigation.

However, further analysis of the above-mentioned provisions under the challenged purchase agreement in the proceeding concerned found no evidence that would have substantiated the leads or evidence for any infringement of the UTPs Act.

Therefore, the CCA adopted a decision to terminate the administrative proceeding concerned.