

Class: UP/I 034-03/19-04/006
Reg.no: 580-16/119-2021-018
Zagreb, 30 December 2021

CCA vs. FRAGARIA NERETVA d.o.o., Opuzen

- **Unfair trading practices**
- **Decision on termination of the proceeding**

Case summary:

In October 2019 the Croatian Competition Agency (CCA) opened an infringement proceeding in respect of alleged unfair trading practices against Fragaria Neretva d.o.o. from Opuzen, with the view to establishing whether the buyer of mandarins imposed unfair trading conditions on its suppliers.

In line with the received complaint, Fragaria Neretva allegedly failed to issue purchase orders or issued purchase orders with a ten-day delay, did not weigh the supplied mandarins or weighed them irregularly, junked the fruits in a non-transparent manner, refused to purchase mandarins and failed to clearly label the price.

Regardless of the fact that the above-mentioned practices indeed were regarded as unfair trading practices under the Croatian Act on the prohibition of unfair trading practices in the business-to-business food supply chain (UTPs Act), in any administrative procedure in this area it has to be defined whether the undertaking concerned fulfils the turnover threshold so as to constitute an undertaking with strong bargaining power under the UTPs Act stipulating that a buyer whose total annual turnover and total annual turnover of companies connected to the buyer realized in the Republic of Croatia exceeds the amount of HRK 50,000,000 is considered to possess strong bargaining power, whereby this does not include the turnover realized through the sale of goods or provision of services between connected companies (companies within a group).

Based on the facts of the case, on 30 December 2021 the CCA adopted a decision stating that regardless of the fact that the operation of Fragaria Neretva in this particular case had not been in compliance with the UTPs Act, since Fragaria Neretva did not have strong bargaining power within the meaning of the provisions of the UTPs Act described above, the provisions of the UTPs Act could not apply.

Due to the absence of legal presumption the CCA terminated the proceeding in this particular case.