



2023 ANNUAL REPORT

CROATIAN
COMPETITION
AGENCY



INTRO

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President of the Competition Council



This is an overview of the main activities of the Croatian Competition Agency (CCA) in 2023, during which the CCA, as in previous years, played an active role in maintaining open, effective, and fair competition in the market of the Republic of Croatia. The focus of the CCA has been on detection and sanctioning of the most severe infringements of competition law, primarily prohibited horizontal agreements between competitors (cartels), which cause the greatest financial harm to buyers, the market itself, consumers, and society, and naturally, on other prohibited agreements. The CCA also continued its activities in abuse of a dominant position of undertakings that distort the competitive structure of the market. The CCA work also continued in the area of assessment of concentrations between undertakings, thereby preventing anticompetitive effects of mergers and acquisitions, or the creation of new undertakings that would unilaterally set prices, reduce the quality of their products and services, or hamper innovation.

As in previous periods, the CCA remained active in promoting competition law and policy and in that sense provided expert opinions on proposed and existing laws and regulations that are not fully compliant with competition law. In 2024 particular attention in the area of competition advocacy was dedicated to liberal professions and their professional associations where the

CCA examined possible barriers to entry contained in the legislation concerned.

The CCA competition advocacy activities continued in the sense of raising awareness of the importance of complying with competition rules. Active competition advocacy activities have been carried out by the CCA experts in the form of trainings and workshops for different stakeholder categories—students, regulators, undertakings, associations of undertakings, and the general public—along with experts in competition law. One of the important ways to promote competition culture is cooperation with various institutions.

The CCA activities focused on detection and sanctioning of hard-core restrictions of competition rules contained in prohibited horizontal agreements between competitors (cartels) and severe vertical restraints contained in agreements between undertakings that are not competitors in the market.

In 2023, the CCA maintained successful collaboration with public and state authorities, academic institutions, and regulators (Faculties of Law in Zagreb, Osijek, and Rijeka, Faculty of Economics and Business in Zagreb, State Commission for Supervision of Public Procurement Procedures, Croatian Re-

gulatory Authority for Network Industries, Croatian Financial Services Supervisory Agency, Croatian Energy Regulatory Agency and others). To maintain complete transparency the CCA continued to publish all its decisions, opinions, annual reports, market investigations and other relevant documents on its website. Through the LinkedIn business network and its electronic bulletin AZTNinfo, it continued to report about its practices, events, and current issues related to competition law and policy. For the CCA it is important to stay communicate with the media by sharing relevant information from its practice, giving interviews and publishing press releases.

In 2023 the CCA conducted several sector-specific market studies. The primary focus was on markets with the greatest impact on consumers. Therefore, the CCA regularly conducts a groceries retail market study, for which a comprehensive database has been created. This database enables high-quality monitoring of key indicators and market concentration in this sector in the Republic of Croatia.

Within its powers relating to imposition of unfair trading practices in the business-to-business food supply chain in 2023 the CCA started to apply the revised UTPs Act. In addition to completing the ongoing cases, due to repeated competition concerns in this particular market, the CCA also carried out the mandarin oranges market research investigating whether the buyers in the Neretva Valley had aligned their contracts, general business terms and business practices with the provisions of the UTPs Act. The CCA continues to work toward fulfilling the law's goal, which is to establish, ensure, and protect fair trading practices that safeguard the participants in the food supply chain.

In the area of international cooperation, where the CCA is very active, the priorities included regular collaboration within the European Competition Network (ECN) and in the pre-accession negotiations for Croatia's entry into the OECD. The CCA priority in this area was to fulfil the key recommendations of the OECD Competition Committee, essential for the continuation of the negotiations. To this end, the CCA has been undertaking all necessary actions to meet these priority recommendations and will continue to regularly participate in the OECD Competition Committee, where it has had a participant status since 2016.

One of the important activities over the past few years has been the continued monitoring of the digital markets. In ac-



cordance with the adopted national legislative framework, the CCA continued to participate in the implementation of the Regulation (EU) 2022/1925 on contestable and fair markets in the digital sector (Digital Markets Act or DMA), which came into force on 1 November 2022, and has been fully applied since 2 May 2023. Following the adoption of the EU Regulation, the national Regulation on the implementation of Regulation (EU) 2022/1925 came into force on 11 November 2023. Article 3 of this Regulation designates the CCA as the competent authority for its implementation, which gives the CCA the power to cooperate with the European Commission that is exclusively competent for the implementation of the Digital Markets Act.

To achieve all the priority objectives set for 2023 and in the coming period, it is necessary to strengthen the workforce and hire new experts, as well as invest in the CCA staff through trainings and professional development, within the available financial resources.

Finally, I would like to emphasize that effective competition is the foundation of a market economy and a condition for its strengthening, encouraging innovation and providing consumers with benefits in the form of greater choice, better product and service quality, and lower prices. However, to promote competition, the engagement of the CCA as a general regulator in all markets is not enough.

Active efforts from all state bodies are needed to create clear and enforceable competition rules, to support compliance with these rules by all market participants, and particularly, strengthen competition culture and fair trading practices in the market. Therefore, as the president of the Competition Council, my goal is to further support the independence and autonomy of the CCA in enforcing the rules, ensuring sufficient financial and human resources, and continuing to monitor new developments within its jurisdiction. All with the view to contributing to the economy's welfare through compliance with competition rules and the prohibition of unfair trading practices in the food supply chain.

The national Regulation on the implementation of Regulation (EU) 2022/1925 came into force on 11 November 2023. It empowers the CCA for the cooperation with the European Commission that is exclusively competent for the implementation of the Digital Markets Act.

HIGHLIGHTS OF THE YEAR 2023

- 6 FEBRUARY**
FIRST OECD MISSION IN THE AREA OF COMPETITION IN CCA
- 16 FEBRUARY**
FIRST REGIONAL MEETING OF THE ENFORCEMENT AUTHORITIES IN THE AREA OF UNFAIR TRADING PRACTICES
- 1 MARCH**
CCA SIGNS COOPERATION AGREEMENT WITH THE FACULTY OF ECONOMICS AND BUSINESS IN ZAGREB
- 20 APRIL**
CCA ANNUAL CONFERENCE
- 6 JUNE**
CCA SIGNS COOPERATION AGREEMENT WITH THE LAW FACULTY IN ZAGREB
- 20 JULY**
CCA FINES KEINDL SPORT D.O.O. EUR 281,837 FOR HAVING BEEN ENGAGED IN A PROHIBITED VERTICAL AGREEMENT
- 11 NOVEMBER**
CCA DESIGNATED AS ENFORCEMENT AUTHORITY UNDER DIGITAL MARKETS ACT (DMA)
- 15 NOVEMBER**
PRESIDENT OF THE PARLIAMENT ECONOMIC COMMITTEE IN A WORKING VISIT TO CCA
- 1 DECEMBER**
CCA IMPOSES A FINE OF EUR 30,000 ON PLODINE D.D. FOR SERIOUS INFRINGEMENT OF THE UTPs ACT
- 25 OCTOBER**
AZTN SIGNS COOPERATION AGREEMENT THE COMPETITION AUTHORITY OF GEORGIA

OUR TASKS AND OBJECTIVES

1

The task of the CCA is to ensure the proper functioning of the market that produces benefits for the consumers, undertakings and the economy as a whole, by removing the barriers and addressing the market failures through effective enforcement of competition rules and the rules on the prohibition of unfair trading practices.

2

The main objective of the CCA as an expert authority and competition regulator in all markets is to create and ensure effective competition through enforcement and advocacy activities, that would facilitate long term growth, benefit the economy of Croatia, ensure maximum benefit for consumers enhancing their choice, creation of high-quality innovative goods and services at lower prices, that at the same time encourage undertakings to improve effectiveness and innovation in the market.

3

The CCA is a stand-alone and independent legal person with public authority, a general, national regulator in charge of competition in all markets. It performs the activities within its scope and powers regulated by the Competition Act, OG 79/09, 80/13 and 41/21) and Articles 101 and 102 of the Treaty on the functioning of the European Union, OJ C 115, 09.05.2008 (TFEU). In other words, the CCA applies the national competition law under the national Competition Act in parallel to European competition law contained in Articles 101 and 102 TFEU.

4

Competition rules (antitrust rules) implemented by the CCA include any prevention, restriction or distortion of competition by any undertaking in the market in the form of a prohibited agreement between undertakings and abuse of a dominant position in the market. The CCA is also responsible for ex-ante merger control.

5

The CCA has been also in charge of the implementation of the Act on the prohibition of unfair trading practices in the business-to-business food supply chain, OG 117/17 and 52/21; (UTPs Act). The full application of the UTPs Act started on 1 April 2018 and the application of the Revised UTPs Act 2021 on 1 March 2022. For the first time this piece of legislation has regulated the area of unfair trading practices in the business-to-business food supply chain in Croatia. The UTPs Act defines the rules and measures for the prevention of imposition of unfair trading practices, it provides a list of the unfair trading practices in the food supply chain, the imposition of which enables the use of the strong bargaining power of the buyers with respect to their suppliers. The UTPs Act seeks to establish, ensure and promote fair-trading practices that would protect the participants in the business-to-business food supply chain.

6

Regulation (EU) 2022/1925 on contestable and fair markets in the digital sector (Digital Markets Act, DMA) came into force on 1 November 2022, and has been fully applied since 2 May 2023. Following the adoption of the EU regulation, the national Regulation on the implementation of Regulation (EU) 2022/1925 came into force on 11 November 2023. Article 3 this regulation designates the CCA as the competent authority for its implementation, which gives the CCA the power to cooperate with the European Commission that is exclusively competent for the implementation of the Digital Markets Act.



COMPETITION COUNCIL

The CCA is run and managed by the Competition Council consisting of five members. The president and the members of the Council are all employed in the CCA. They are appointed and relieved from duty by the Croatian Parliament, upon the proposal of the Government of the Republic of Croatia for a five-year term of office.

The conditions for the appointment, the term of office and the scope of competence of the Council are regulated by the Competition Act. The members of the Council cannot be state officials, persons who perform duty in any administrative body of a political party, members of supervisory boards and executive bodies of undertakings, or members in any kind of interest associations, which could lead to conflict of interest.

At the same time, the president and the members of the Council cannot be relieved from office due to the reasons linked with the orderly performance of their duties and orderly exercise of their powers in the application of the Competition Act and Articles 101 and 102 TFEU.

As the managing body of the CCA the Council adopts its decisions in its sessions, with the majority of at least three votes. The president or the vice-president of the Council must be present at the session.

CCA EXPERT TEAM

Everyday administrative tasks are carried out by the expert team of the CCA, that consists of masters of law with a passed Bar Exam, masters of economics specialized in competi-



on law and policy and IT experts specialised in digital forensics.

There is a team of at least one lawyer and one economist handling a case, accompanied, when necessary and depending on the complexity of the case, by an IT expert.

The expert team of the CCA performs administrative and investigation activities in establishing the facts of any case, whereas the Council adopts the decisions on the basis of which the case is resolved.

CCA FINANCING

The CCA has no operational or financial revenue of its own. The CCA is financed exclusively from the State Budget of the Republic of Croatia.



In compliance with the financial capacity of the State Budget of the Republic of Croatia the CCA is ensured resources in terms of sufficient qualified staff, financial means, technical and technological expertise, and equipment.

On the other hand, the CCA is independent regarding the purposeful spending of the financial means allocated to it for the enforcement of its powers, without prejudice to and in full compliance with the provisions of the Act on the Execution of the State Budget.

FINES

The fines set and imposed by the CCA for the infringements of the Competition Act and the UTPs Act are contributed to the State Budget of the Republic of Croatia.



ABOUT CCA – ORGANIZATION AND FINANCING

2023 IN FIGURES

NUMBER OF RESOLVED CASES

661

cases in the area of competition and unfair trading practices in the food supply chain

53

administrative cases

48

antitrust complaints

FINES IN 2023

EUR 363,337

Imposed fines for the infringements under Competition Act and UTPs Act

FINES 2010 – 2023

EUR 5.341,783

TOTAL **EUR 4.259,619**

ANTITRUST AND MERGER CONTROL

EUR 1.082,164

UNFAIR TRADING PRACTICES

CASES

63

preliminary market investigations

18

cases in prohibited agreements

23

cases in abuse of dominance

22

cases regarding assessment of compatibility of a concentration

IN THE AREA OF PROHIBITED AGREEMENTS THE CCA RESOLVED

29

cases

9

administrative

20

non-administrative cases

PRELIMINARY MARKET INVESTIGATIONS HAVE BEEN CARRIED OUT IN

18

relevant markets

IN THE AREA OF ABUSE OF DOMINANCE THE CCA RESOLVED

23

preliminary market investigations have been carried out in relevant markets

27

cases

22

administrative

5

non-administrative cases

ADVOCACY CASES

74

resolved cases

13

expert opinions on laws

58

answers to different queries

ADMINISTRATIVE CASES UNDER UTPS ACT

7

resolved cases

5

imposed fines

2

terminated cases

FINES FROM 1 JANUARY – 31 DECEMBER 2023

EUR 81,500

PAYMENTS INTO STATE BUDGET **EUR 42,491**

ASSESSMENT OF CONCENTRATIONS

27

resolved cases

17

administrative

10

non-administrative

INVESTIGATIONS

22

relevant markets

PROHIBITED CONCENTRATIONS

0

IN 2023 CCA

Published **66** decisions



Responded to **25** journalists' questions



Published **74** press releases



23 parties' queries

Published **10** e-bulletins



Enforcement of competition rules

In 2023 the CCA continued with its core activity and that is the enforcement of national and European competition law within its powers, with an emphasis on eliminating hard core restrictions of competition and active cooperation with the European Commission (EC). Within this objective, the focus of CCA's work was on the activities of undertakings that directly distort competition and limit economic growth.

The proceedings identifying distortion of competition in the form of conclusion of a prohibited agreement between undertakings or abuse of a dominant position by an undertaking in the market are very complex due to the necessity of a detailed economic and legal analysis and the protection of the right of the parties to be heard in the proceedings, and they are therefore defined in detail under the Competition Act. The initiative for the initiation of the proceeding falling under the scope of the CCA, in other words, a request, a proposal, a notice or a complaint – may be submitted in writing by any legal or natural per-

Within the concrete case proceedings that were closed in 2023 the CCA carried out investigations in 63 relevant markets, 18 thereof were in the area of assessment of prohibited agreements between undertakings, 23 in the area of alleged abuse of a dominant position in the market and 22 in the area of assessment of compatibility of concentrations between undertakings.

son, professional association or economic interest group or association of undertakings, consumers association, the Government of the Republic of Croatia, central administration authorities and local and regional self-government units.

For the infringements of the Competition Act in 2023 the CCA imposed the fines in the total amount of EUR 281,837.

Prohibited agreements

One of the priorities of the CCA in 2023 was again the elimination of hardcore restrictions within the meaning of the Competition Act contained in prohibited agreements, particularly, horizontal agreements that are concluded between competitors (cartels) which have as their object or effect the distortion of competition in the relevant market, and in particular those which directly or indirectly fix purchase or selling prices, limit or control production, markets, technical development or investment, share markets or sources of supply, where the participants to the agreement are engaged in other prohibited behaviour that mostly harms the consumers and the economy as a whole and constitutes the most serious infringement of competition rules.

Naturally, these priorities included also prohibited vertical agreements.

In the area of prohibited agreements in 2023 the CCA resolved a total of 29 cases in this area, 9 thereof were administrative and 20 non-administrative cases. In these cases, the CCA conducted preliminary market investigations in 18 relevant markets:

- road passenger transport
- purchase of IT equipment
- purchase of lab equipment
- sales of milk and dairy products
- purchase of regular road maintenance works
- provision of banking services
- buying of licensing rights
- provision of repair and maintenance services for motor vehicles
- buying of project documentation services
- press distribution
- provision of construction services
- purchase of ice rink construction works
- comprehensive automobile insurance
- lease of premises in outlets
- provision of insurance services
- provision of telecommunications services
- purchase of electrical insulators
- distribution of CUBE bicycles.



Example of a prohibited vertical agreement case

CCA V KEINDL SPORT D.O.O., ZAGREB

THE CCA FOUND THAT KEINDL SPORT EXPLICITLY IMPOSED ON ITS DISTRIBUTORS TO APPLY THE RESALE PRICE LISTED IN THE PRICELISTS AND PREORDER FORMS DELIVERED TO THEM BEFORE EACH MODEL SEASON, WITH THE VIEW TO APPLYING THE UNILATERAL CONDUCT OF KEINDL SPORT THAT HAD AS ITS OBJECT THE RESALE PRICE MAINTENANCE (RPM) FOR CUBE BICYCLES

In its infringement decision of 20 July 2023, the CCA found that within the meaning of the Croatian Competition Act the distributor of bicycles Keindl sport d.o.o. from Zagreb concluded a prohibited vertical agreement with its 15 distributors in the territory of the Republic of Croatia.

In the period from 17 September 2013 to 1 June 2018 this undertaking had set minimum resale prices of CUBE bicycles where the distributors concerned tacitly agreed to implement the unilateral business policy of the undertaking Keindl sport that had as its object resale price maintenance (RPM) of the product concerned and adopted the unilateral conduct in practice.

For this hard core restriction Keindl sport was fined a total of EUR 281,837.

The resale price maintenance, in other words, an agreement or concerted practices that have as their direct or indirect object the restriction of the buyer's ability to determine its sale price, without prejudice to the possibility of the supplier to impose a maximum sale price or recommend a sale price, provided that they do not amount to a fixed or minimum sale price as a result of pressure from, or incentives offered by any of the parties, constitutes a hard core restriction.

The CCA found that Keindl sport explicitly imposed on its distributors to apply the resale price listed in the pricelists concerned and the preorder forms delivered to them before each model season, with the view to applying the unilateral conduct of Keindl sport that had as its object the resale price maintenance for CUBE bicycles.

In the surprise inspection carried out on the Keindl sport business premises the CCA found evidence on the existence of an agreement between Keindl sport and 15 of its distributors that indirectly set the resale price of CUBE bicycles determining that the discounts for new CUBE bicycles would not be given in the fall/winter season, or that the highest discount for new CUBE bicycles in the season would not exceed the capped 5 per cent.

The CCA also found evidence that the distributors concerned actively and directly participated in the unilateral conduct of Keindl sport

on the basis of which it set the resale price of CUBE bicycles, where they would disclose or report other members of the distribution network that deviated from the standard pricing level of Keindl sport, the agreement on the absence of discounts or the agreement on maximum discounts applicable on new models of CUBE bicycles in season.

The analyses of the invoices submitted by these 15 distributors for 4,690 CUBE bicycles sold to end customers in the period from 15 September 2013 to 1 May 2018, indicated a concurrence of wills in the adopted unilateral conduct of Keindl sport in the resale price maintenance, in the entire observed period, by setting the retail prices of CUBE bikes in an amount equal to or higher than the retail prices in the price lists and pre-order forms communicated to the distributors by Keindl sport before the start of a new season or when creating

For this hard core restriction Keindl sport was fined a total of EUR 281,837.

Keindl Sport did not challenge the CCA decision at court, and it paid the fine imposed by the decision in question into the State Budget of the Republic of Croatia.

wholesale orders in Keindl sport's B2B web shop during season and that the distributors adhered to the agreement with Keindl sport not to approve discounts on new models of CUBE bicycles in season (autumn/winter) or the maximum allowed discount of 5 percent.

Out of the total number of CUBE bikes sold by all the distributors concerned in all model seasons of 2014, 2015, 2016, 2017 and 2018, the CCA found that over 93 percent of these CUBE bikes were covered by the prohibited agreement between Keindl sport and the distributors concerned.

Keindl Sport did not challenge the CCA decision at court, and it paid the fine imposed by the decision in question in the amount of EUR 281,837 into the State Budget of the Republic of Croatia.



Abuse of a dominant position

Dominance is not prohibited but abuse of dominance definitely is, and it takes the most typical forms like:

- directly or indirectly imposing unfair purchase or selling prices or other unfair trading conditions;
- limiting production, markets or technical development to the prejudice of consumers;
- applying dissimilar conditions to equivalent transactions with other undertakings, thereby placing them at a competitive disadvantage;
- making the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts.

Abuse of a dominant position by an undertaking/s on the market is also a hard core restriction of competition that impedes the competitive market structure and prevents the competitors from market entry or growth.

Within the meaning of the Competition Act the undertaking which holds more than a 40 per cent market share in the relevant market can be presumed to be dominant but this is a rebuttable legal presumption.

When identifying a dominant position on the market, a whole range of factors are taken into account, such as, for example, the time during which the undertaking holds a high market share and its market position, its economic power, advantageous access to sources of supply or the market, economic links with other undertakings, legal or factual barriers to entry, the ability to impose market conditions with regard to its supply or demand and the ability to exclude competitors from the market by targeting other undertakings.

Abusive exclusionary practices are particularly detrimental to competition. This is why in 2023 the CCA continued to investigate whether cer-

tain undertakings have been involved in such abusive practices.

With the view to identifying likely indications of abuse of dominance that would suffice for the opening of an infringement procedure, in 2023 the CCA conducted a preliminary market investigation in 22 relevant markets and resolved 27 cases in this area (22 thereof were administrative cases and five non-administrative).

In 2023 the CCA conducted a preliminary market investigation into the following 22 relevant markets:

- shipments from third countries delivered to Croatia based on distance sales (e-commerce), both within and outside the IOSS system,
- printing and enveloping invoice services,
- provision of municipal chimney sweeping services,
- X-ray imaging services,
- provision of force management services,
- voluntary supplementary health insurance,
- association members' participation in committee meetings,
- distribution of timber assortments,
- provision of chimney sweeping services,
- wholesale and retail market for bulk SMS, cabotage market,
- gypsum plasterboards market,
- delivery of contracted cubic meter timber and logs,
- mixed municipal waste bags,
- clay brick production,
- provision of water services,
- provision of passenger road transport services,
- electricity transmission and electricity production,
- wholesale electricity markets,
- electronic payments in euros,
- provisions of chimney inspection services, and
- fast food services market.

Example of abuse of dominance case

CCA V HRVATSKE ŠUME D.O.O. – COMMITMENTS DECISION



Hrvatske šume fulfilled the undertaken commitments listed under the CCA decision, which left no legal grounds for any further actions of the CCA.

On 7 October 2021, based on the complaint of the undertaking Massive Panels, the CCA opened ex-officio proceeding against the Croatian forestry and woodland management company Hrvatske šume d.o.o., with the view to identifying any anticompetitive behaviour in the form of abuse of dominance in the distribution of timber assortments.

On 20 July the CCA 2023 closed the case against Hrvatske šume by accepting the implementation of the commitments proposed voluntarily by the undertaking concerned. Namely, following the initiation of the proceeding and at the latest before the Statement of Objections, a party to the proceeding may offer its commitments in the form of certain conditions and obligations within a set time period, with the view to eliminating the negative effects on competition.

Concretely, at the early stage of the proceeding Hrvatske šume undertook to apply equal, clear, and transparent conditions to its buyers - that are at the same time its competitors - when allocating timber assortments quotas in public invitations for the conclusion of framework and annual contracts, which will be monitored by the Office of the Management Board in line with the Compliance Programme. In addition, Hrvatske šume undertook to conduct public consultations on the draft Decision on the methods and conditions of sale of timber assortments of Hrvatske šume for each upcoming year on the central State e-Consulting portal for public consultations.

Furthermore, Hrvatske šume committed itself to drafting of the Compliance Programme – regarding the compliance of its operations with competition rules within three months, i.e., by 6 September 2023 and submit it to the CCA.

The Compliance Programme was submitted to the CCA on 5 September 2023. By acting in this manner, Hrvatske šume fulfilled the undertaken commitments listed under the CCA decision, which left no legal grounds for any further actions of the CCA. The undertaking Massive Panels brought a suit against the relevant decision of the CCA.

In its ruling of 10 January 2024, the High Administrative Court of the Republic of Croatia (VUSRH) rejected the statement of claim of the undertaking Massive Panels and upheld the decision of the CCA, making the decision of the CCA legally valid. In its ruling, the VUSRH confirmed that the CCA properly applied factual and legal elements that were relevant for accepting the commitments offered by Hrvatske šume, appropriately addressing the competition concerns and without establishing an infringement and imposing sanctions.

27
resolved cases

22
administrative cases

5
non-administrative

Merger control

In the sense of competition rules, a concentration between undertakings arises where a change of control on a lasting basis is created by:

- acquisition or merger of two or more independent undertakings or parts thereof that establish a new company or continue to operate under the name of one of these;
- acquiring direct or indirect control or decisive influence of one or more undertakings over one or more undertakings, or a part or parts of an undertaking or undertakings, in particular by acquisition of the majority of shares or share capital, or obtaining the majority of voting rights, or in any other way in compliance with the provisions of the Companies Act.

The creation of a joint venture by two or more independent undertakings performing on a lasting basis all the functions of an autonomous economic entity also constitutes a concentration within the meaning of competition rules.

As a rule, mergers (concentrations between undertakings) are a normal and common part of business and a justified form of consolidation or restructuring processes of companies or whole industries with a view to achieving savings and synergies that will ensure new economic entities better performance. Unlike the assessment of possibly prohibited agreements between undertakings or abuse of a dominant position by an undertaking/s in the market which is carried out ex-post on the CCA's own initiative, the assessment of compatibility of concentrations between undertakings is carried out ex-ante, based on the merger notification of the undertakings concerned in the sense of the criteria for obligatory notification under the Competition Act.

In other words, the participants to the concentration must notify the concentration prior to its implementation, where they cumulatively fulfil the criteria for notification in terms of turnover thresholds in the Croatian and global market, as stipulated in Article 17 paragraph 1 of the Competition Act. In other words, no concentration exceeding the said thresholds can be implemented without the compatibility assessment and approval of the CCA. The task of the CCA is to carry out ex ante investigations into these transactions and run the checks into their possible beneficial effects on market structure and consumer interests, that should outweigh the anticompetitive effects of the concentrations, such as the decline in the number of competitors or the rise in collusive behaviour or possible creation or strengthening of a dominant position.

In 2023 the merger control cases involved the analysis of 22 relevant markets:

- sale of new motor vehicles (passenger cars and light commercial vehicles),
- sale of original spare parts for motor vehicle brands Hyundai, Ford, Renault, Nissan, and Dacia,
- repair and maintenance services for motor vehicle brands Hyundai, Ford, Renault, Nissan, and Dacia,
- collection of industrial and commercial waste (bio-waste, wood, bulky waste, metal, mixed construction waste, plastic),
- collection of industrial and commercial waste (paper/cardboard),
- processing of paper/cardboard,
- wholesale in paper/cardboard,
- production and sale of furniture,
- production and sale of sawn timber,
- production and sale of wood elements/components,
- production and sale of wood panels,
- production and sale of wood residues,
- production and sale of briquettes,
- purchase of wood logs (technical wood),
- purchase of firewood,
- production and import of processed meat products,
- wholesale in fresh pork, beef, veal, lamb, poultry meat, and processed meat products,
- production and wholesale of electricity (territory of the Republic of Serbia),
- groceries retail market (food, beverages, toiletries and household supplies),
- groceries wholesale market (food, beverages, toiletries and household supplies),
- hospitality services (accommodation and food and beverage services) in hotel-type accommodation facilities,
- hospitality services (accommodation and food and beverage services) in camp site-type accommodation facilities.

Example of merger assessment case: Clearance of concentration in Phase II

EKO-FLOR PLUS D.O.O., OROSLAVJE/ REOMA GRUPA D.O.O., ZAGREB

Based on competition concerns a change in control on a permanent basis over the undertaking REOMA GRUPA d.o.o. from Zagreb by the undertaking EKO-FLOR PLUS d.o.o., Oroslavje, both active in the waste management market, was assessed by the CCA in the Phase II.

Taking into account the data contained in the notification of the proposed concentration and other available data, following the in-depth probe carried out in the second phase the CCA unconditionally cleared the merger in question.

The results of the investigation indicated that the concentration of undertakings in question would primarily produce effects in the following relevant markets:

- collection of industrial and commercial waste (biodegradable waste, wood, bulky waste, metal, mixed construction waste, plastic) in the Republic of Croatia,
- collection of industrial and commercial waste (wastepaper, cardboard) in the Republic of Croatia,
- processing of wastepaper/cardboard in the Republic of Croatia, and
- wholesale of wastepaper/cardboard in the Republic of Croatia, neighbouring Member States and EU non-member states.

Due to the high post-merger share in the industrial and commercial waste collection market (paper/cardboard) in the territory of the Republic of Croatia, the notifying party provided an explanation of the horizontal and vertical effects of the concentration in the document "Economic Impact Analysis," prepared by the Faculty of Economics and Business in Zagreb.

The CCA accepted this analysis and its conclusions as credible and relevant for the assessment of the effects of the proposed concentration.

The "Economic Impact Analysis" stated that several factors make it unlikely for the undertakings concerned to profitably raise prices in the post-merger period, meaning that no significant horizontal effects have been expected. It first highlighted that the market is not asymmetric because there is clear competitive pressure from the second placed rival and two other undertakings holding the market shares also

enabling the competitive pressure. The rest of the market is made up of an additional 101 participants. The most significant competitors of the concentration participants in the paper and cardboard market are vertically integrated.

In this relevant market, there are many smaller actual competitors (more than a 100) and numerous potential compe-

titors (undertakings licensed to operate in this field but currently not doing so).

The market is very dynamic and open, with a growing trend. Several large multinational companies have entered the Croatian waste management market, including paper/cardboard, by acquiring established domestic companies. The contracts for the collection and transportation of non-communal waste, including paper and cardboard, have been typically made through public procurement procedures, usually on a short-term basis (one-to-two-year duration period). This has been the predominant business model of the target company REOMA, which means that market conditions have been constantly changing depending on the best bidder in public tenders made by the local government units. As such, the market is open, and any qualified party may participate in the tenders.

In this specific case, it would not be profitable for the undertakings concerned to significantly raise prices, as enough buyers would switch to their competitors. Competition in this market occurs between smaller local markets, and it should be considered that the companies from the neighbouring markets or even distant local markets serve as a source of effective competitive pressure on the participants' ability to profitably increase prices.

Furthermore, there is sufficient buyer market (countervailing) power to prevent the concentration participants from profitably increasing prices. In this case, buyers include, first, public contractors and, second, "private" buyers of processed materials.

Public contractors—local administration units and the companies they own—have strong bargaining power and can dictate market conditions. They are stronger than suppliers, as they can dictate the conditions for tenders. This limits the market power of undertakings bidding in public tenders since public procurement rules require open and competitive tenders.

On the other hand, there are also buyers of processed material that is marketed as a finished or a semi-finished product, such as baled material, which is more compact and less costly to transport than loose material and is sold to recyclers. There aren't many such buyers in Croatia, and they purchase from various suppliers.

Furthermore, the analysis data pertain to volumes, not company revenues, so there is not necessarily a correlation between the market share data based on volumes and what

would be derived from the revenue data. The collected quantities may not necessarily indicate the company's market power. For example, in the case of paper/cardboard, collection can either be paid, i.e., where the undertaking pays for the waste, or free, where collection costs are included in the market price of the processed waste.

Therefore, in this specific case, it would not be profitable for the undertakings concerned to significantly raise prices, as enough buyers would switch to their competitors. Competition in this market occurs between smaller local markets, and it should be considered that the companies from the neighbouring markets or even distant local markets serve as a source of effective competitive pressure on the participants' ability to profitably increase prices.

It is not likely that the market leader would profitably increase prices, given the access to waste management services needed by public contractors are subject to competitive tendering, where the providers bid with the price. On the other hand, the sale of material to third parties is a market relationship, where bidders, due to their number, do not have the power to impose prices.

Regarding the vertical effects, the "Economic Impact Analysis" notes that there is a vertical relationship between the undertakings concerned on the account of the fact that they are active both in the industrial and commercial paper and cardboard collection market (upstream

market) and in the paper and cardboard processing market (downstream market). There are vertical links between the upstream (collection and transportation) and downstream (processing) waste management market, including paper and cardboard.

In terms of potential vertical effects relating to market foreclosure, the question arises as to whether REOMA would cease to supply its existing customers in the post-merger period, or if access to the market for actual or potential competitors will be hindered.

Paper waste sorting and baling (processing) are conducted by CIOS Group companies and others on the market, while DS Smith Belišće Croatia d.o.o. is the leading paper and cardboard company, owning a factory for paper and cardboard packaging production in Belišće. However, CIOS Group companies do not have such technology and focus on sorting and baling paper/cardboard by material type (e.g., white paper, newsprint, cardboard packaging etc.).

REOMA, in turn, generates significant revenue from exporting processed paper/cardboard abroad. This indicates that exporting raw materials is feasible, making it unlikely that the

participants to the concentration would implement a market foreclosure strategy in the post-merger period.

Moreover, the buyers may switch to alternative suppliers of paper and cardboard under similar conditions domestically and internationally, indicating buyer dispersion in terms of paper/cardboard purchase and sale options. In any case, the ability to foreclose the market is excluded because, in the post-merger period, the participants to the concentration will hold a significantly smaller market share than the leading undertaking (DS Smith Belišće Croatia Ltd.) on the downstream market.

Additionally, wholesale buyers of paper and cardboard are exclusively third parties, so there is no risk of market foreclosure following the implementation of the concentration. Given the relatively low market shares of both REOMA and CIOS Group in waste collection and processing, the proposed transaction does not generate negative vertical effects. According to the data supplied by the notifying party, EKO FLOR PLUS data for 2022, and the revised "Economic Impact Analysis" of the Faculty of Economics and Business in Zagreb, compared to the data submitted for 2021, the participants to the concentration would hold a significant market share in industrial and commercial waste collection in Croatia (paper/cardboard), with a slight drop in market share compared with the previous period. Similarly, in 2022 the market share of the participants to the concentration on the downstream market (paper and cardboard processing) also slightly dropped compared with 2021.

At the same time, the analysis indicated a stable market situation in 2021 and 2022, with a projection for 2023 without significant deviations. Over the observed years, the DS SMITH group, consisting of DS SMITH Unijapapir Croatia d.o.o. and DS SMITH Belišće Croatia d.o.o. (owning the wastepaper and cardboard processing plant in Belišće and paper packaging production plant Biokalnik – IPA d.d.), holds a leading position in the market, completing the entire paper/cardboard recycling process in Croatia and the neighbouring countries.

EC NOTIFICATIONS OF CONCENTRATIONS

In 2023 there were 360 notifications of concentrations that were notified to the EC and then transmitted to the CCA, where the effects of these concentrations on competition in the Croatian market had to be assessed. In other words, it is the obligation of the EC to transmit the obligatory notification of a concentration to all national competition authorities in any case of concentrations with an EU dimension. As a rule, these are concentrations that produce effects in at least three Member States. At the same time, a well-placed authority to deal with the compatibility assessment procedure is decided within the European Competition Network (ECN).

Furthermore, the most significant market share fall in industrial and commercial waste collection in Croatia occurred in 2022 for bulky waste due to significant impacts on market shares in bulky waste collection and transportation services caused by the earthquake in Zagreb in 2020 and the 2020 Petrinja earthquake. This led to comprehensive bulky waste collection activities, which were no longer required in 2022.

There was also a market share fall in metal waste in 2022 compared to 2021, while wood waste collection grew as a result of the necessary compliance with the rules according to which the notifying party as a licenced processor of wood packaging waste, was required to organize the collection network at the national level by 31 July 2022, which led to an increase in wood packaging waste volumes collected and processed.

In 2022, there was also growth in plastic waste market share compared with 2021. Drava International remains the leading plastic processor, following a European trend toward energy recovery for plastics. A slight increase in 2022 was also recorded for bio-waste and mixed construction waste.

Based on the assessment of the data contained in the merger notification, the statements provided by the notifying party, the established structure of the relevant markets considering actual and potential competitors, general indicators of market shares in the relevant market, obtained data and statements from the surveyed undertakings, the response from the Environmental Protection and Energy Efficiency Fund, the post-merger market share of the participants, the economic analysis contained in the document "Economic Impact Analysis" prepared by the Faculty of Economics and Business, University of Zagreb, the expected effects of the concentration in terms of benefits to consumers, and other available data and information, documents and evidence, as well as the results of the legal and economic analysis conducted in this case, taking into account all the specific factual, legal, and economic circumstances, the CCA found that the concentration in question was considered permissible.

Competition advocacy

Besides the enforcement of the rules under its scope involving the administrative proceedings and case handling, one of the important roles of the CCA is active competition advocacy.

Concretely, the CCA is empowered to issue expert opinions regarding the compliance with competition rules of draft proposals for laws and other legislation, as well as the existing laws and other legal acts. Competition advocacy activities also include important market studies, the publishing of the CCA decisions on its website, press releases, the monthly e-bulletin AZTNinfo and other communication activities that ensure transparency in the work of the CCA, including the digital business network LinkedIn. The CCA experts often write articles and research papers, give lectures, organize and participate in trainings, workshops and international conferences covering the relevant competition issues. The primary enforcement activity of the CCA is thereby significantly enhanced by competition advocacy.

In 2023 there were 74 resolved advocacy cases, thereof 13 expert opinions on laws, 58 answers to different queries about competition issues and three cooperation cases. Besides, the CCA answered a lot of questions submitted by undertakings and other stakeholders regarding competition advocacy.

In 2023 the CCA also continued with its intense activities involving proactive competition advocacy and development of competition culture and raising awareness about the importance of compliance with competition rules for the economy and consumers, particularly in the sense of creation of the whole institutional and economic environment that would promote the entry of new undertakings to the market and the removal of any actual and administrative barriers for the development of competition.

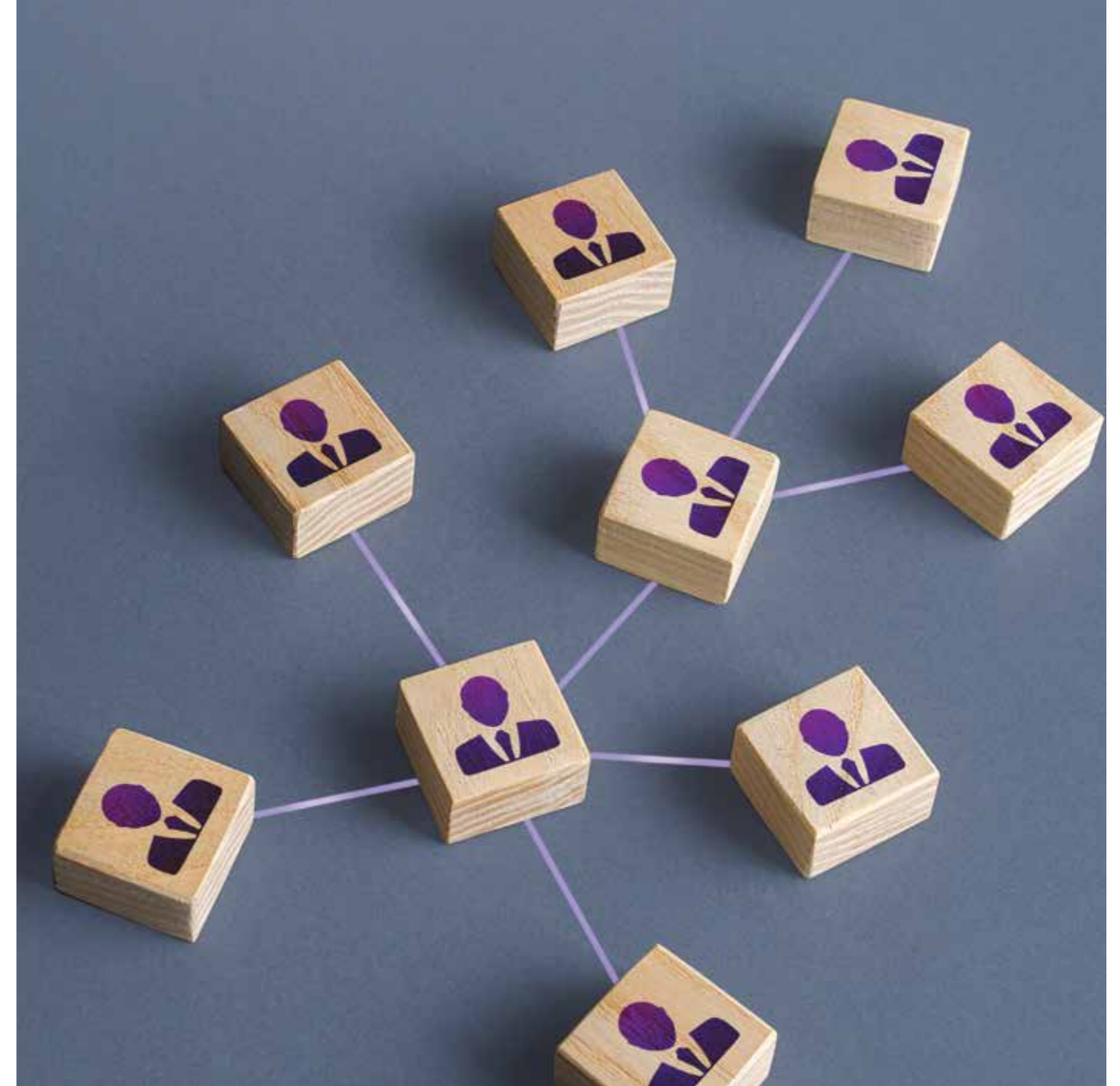
Example of competition advocacy case:

CCA OPINION ON PROPOSED DECISION ON GRANTING PRIOR CONSENT FOR AN AGREEMENT WITH THE SHARED SERVICES CENTRE SERVICE PROVIDERS (APIS IT, FINA, CARNET, AKD) SOUGHT BY THE MINISTRY OF JUSTICE, ADMINISTRATION AND DIGITAL TRANSFORMATION

On 13 April 2023 the Croatian Competition Agency (CCA) received a request made by the Ministry of justice, administration and digital transformation seeking the opinion of the CCA regarding the compliance with competition rules of the provisions of the proposed Decision on granting prior consent for concluding an agreement with the service providers of the Shared Services Centre (SSC) that includes the following service providers of shared services for public authorities in Croatia: the Agency for Support of Information Systems and Information Technologies d.o.o. (APIS), the Financial Agency (FINA), the Croatian Academic and Research Network (CARNet), and the Agency for Commercial Activity d.o.o. (AKD). Namely, the Act on National Information Infrastructure and the Regulation on organizational and technical

standards for connecting into the national information infrastructure, define the SSC as an organizational-business model for providing shared services to public sector bodies. Its establishment, maintenance, and management fall under the jurisdiction of the state administration body responsible for the development of the digital society, which receives specified and contracted support in fulfilling this responsibility from the above listed service providers.

In its opinion regarding the proposed Decision the CCA proposed that for the sake of compliance with competition rules in any agreement on the provision of services of the Shared Services Centre, which the relevant Ministry concludes with APIS, FINA, AKD and CARNet, the duration of the agreement



of 3 years should be set. In other words, within the meaning of competition rules it is necessary to observe the right of any service provider to provide a certain service within a certain limited duration period.

Given the fact that the proposed Decision failed to provide the duration period of the agreement concerned, the CCA proposed a term of 3 years as appropriate, which would bring the text of the proposed Decision in compliance with competition rules and considering the technological progress it would not prevent or limit access to the market for other service providers in the long term.

Since the agreements in Article 4 of the proposed Decision contain provisions on public procurement of goods, services, and works for the needs of the Shared Services Centre, in the subsequent implementation of the agreements, the CCA found that generally, from the perspective of competition ru-

les, it was desirable to select the service providers or contractors through competitive tendering while respecting the principles of competition to enable the participation of as many bidders as possible in the tendering process and their access to the market.

Furthermore, the tendering criteria must not be discriminatory, excessive and/or placing a particular undertaking or category of undertakings at a competitive advantage.

When issuing the opinion in question, the CCA took into account the fact that in the specific case, the regulation of the state information infrastructure meets its purpose to ensure the interoperability of public registers and information systems of public sector bodies and to provide common elements for interaction with citizens or other users, at the same time ensuring the information security in line with international standards and the Croatian legislative framework.

Sector inquiries

Market investigations are also one important part of the CCA regular activities. These legal and economic analyses are research projects with the purpose of gaining in-depth understanding of how particular sectors or markets work. They give us insight into possible market barriers and the legal framework regulating individual markets, which is the prerequisite for effective enforcement of the rules falling under the scope of the CCA. These sector inquiries very often enable the CCA to detect indications for infringement proceedings.

In 2023 the CCA conducted three sector inquiries including the 2022 retail groceries' market (market research in food, beverages, toiletries and household supplies), the 2022 press publishing market and the motor fuels market, all in the territory of the Republic of Croatia.

In the following year, besides the regular retail grocery market investigation, the CCA will conduct an additional, com-

In 2023 the CCA conducted three sector inquiries including the 2022 retail groceries' market (market research in food, beverages, toiletries and household supplies), the 2022 press publishing market and the motor fuels market, all in the territory of the Republic of Croatia.

plementary market study into the vertical relationships between buyers and suppliers in the groceries supply chain in the Republic of Croatia, particularly concentrating on the market situation and market conditions after the period of rising food and drink inflation.

Example of sector inquiry

CCA MOTOR FUEL SALES SECTOR INQUIRY

The CCA launched the motor fuel sales sector inquiry in August 2022. One of the objects of the sector inquiry was to establish the relevant facts about the way and mechanisms used in setting the prices of fuels, having in mind the price increase of mostly used oil derivatives products (petroleum and diesel) due to the global disturbances in the relevant production and sales market, but not exclusively limited to global trends.

The aim of this market study was to investigate into the criteria for determining the prices of motor fuels sold in specialized shops - petrol stations in Croatia, as well as to establish facts about the retail prices of motor fuels in the period from 2021 to 2022.

The CCA analysed the fuel prices from 15 October 2021, when the first Regulation on determining the maximum retail prices of oil derivatives by the Government of the Republic of Croatia was adopted (Official Gazette, No. 112/21), that determined the maximum retail price with value added tax for three petroleum fuels and one diesel engine fuel. Prices and mark-ups of traders were analysed in detail in two periods: from 25 January to 31 January 2022, and from 8 to 22 November 2022, specifically for the purpose of comparati-

ve analysis of these two periods, due to the fact that in the first observed period, in January 2022, the Regulation on the repeal of the Regulation on determining the maximum retail prices of oil derivatives (Official Gazette, No. 133/21) was in force (it came into force on 6 December 2021), and during which fuel prices were not regulated for a certain period of time, and in the second period, in November 2022, during which fuel prices were regulated.

The relevant product market comprised the market for the sale of motor fuels, primarily petroleum fuels, diesel engine fuels, and LPG – auto gas. The market investigation aimed to establish facts primarily regarding the motor fuels retail market. Furthermore, considering the defined market situation in the retail market based on commercial and contractual relations with the undertakings active in the upstream market, the investigation also covered the motor fuels wholesale market. The geographic market included the territory of the Republic of Croatia.

This market investigation analysed the legislative and institutional framework of the motor fuels sale in Croatia, identified possible legal and/or factual barriers to entry to the motor fuels wholesale and retail markets in Croatia, determined

general and quantitative indicators of the market situation in the sale of motor fuels in Croatia, defined the market position of individual undertakings, inspected into the regulatory framework for determining the prices of motor fuels, determined the facts about the retail prices of motor fuels (Eurosuper 95 without multifunctional additives, Eurosuper 95 with additives, Eurodiesel without additives, Eurodiesel with additives, LPG – auto gas) in the period from 2021 to 2022, including the method of determining the fuel prices, the application of the formula in calculating the motor fuel retail prices, the structure of the retail fuel prices in 2022, the application of different prices depending on the location of the petrol station, motor fuels taxes and fees, the relationship between the buyers and suppliers, including the facts related to purchase prices of motor fuels in 2022, and determined the facts regarding the contractual relationships between wholesale traders - suppliers of motor fuels, and the retailers of motor fuels and liquefied petroleum gas (LPG).

Additionally, the CCA gained insight into the comparative investigations of some other national competition authorities.

The market inquiry was based on a questionnaire sent to all relevant stakeholders in the market, including large, medium-sized, and small motor fuel traders (a total of 22 undertakings) operating at the retail and/or wholesale level. After the CCA received the basic information from the Croatian Energy Regulatory Agency (HERA) and the Croatian Chamber of the Economy (HGK), detailed questionnaires were sent to the surveyed undertakings in multiple phases from mid-November 2022 to early June 2023.

The sample of the undertakings that was included in the questionnaire was primarily based on the HERA and HGK databases, and additional data and responses provided to the CCA by the included undertakings in the first phase of the inquiry. Additionally, the CCA also contacted the Association of small and medium-sized motor fuel distributors (UMDG) whose 40 members mostly operate on the retail level.

The sector inquiry did not include the upstream market (refinery operations and business), due to the fact that the only refinery in Croatia (owned by INA) was closed down for maintenance. In other words, fuel supply to consumers in Croatia during the observed period was mainly carried out through imports or entries from other countries.

For the purpose of this sector inquiry the CCA also consulted the relevant research and studies of other NCA's that carried out similar market inquiries into the motor fuel sector following the global distortions in this market and increasing prices.

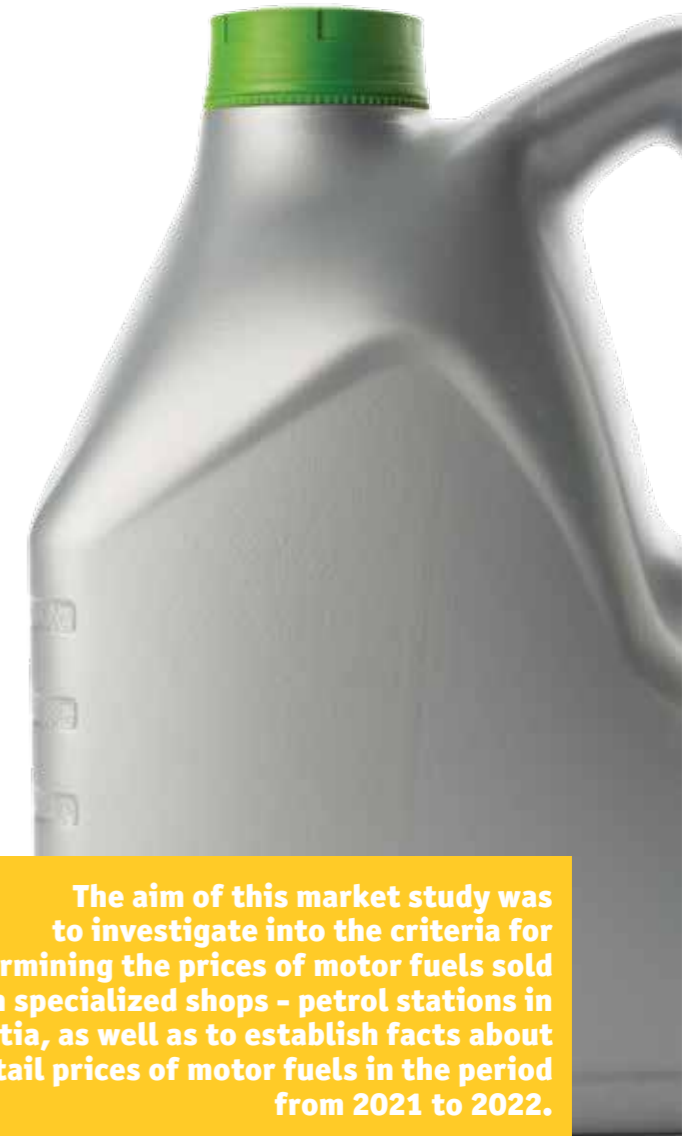
The studies conducted by these competition authorities primarily found that higher fuel prices in most national markets were not

caused by any unlawful activities of motor fuel traders or lack of competition between petrol stations. Instead, they were the result of the rise in the global oil prices and/or refinery production costs resulting from the global energy situation.

Additionally, the conclusions of these studies primarily indicated that it was challenging to distinguish between the price trends that would be in line with effective market competition in the motor fuel markets and the price trends that would raise competition concerns for regulators.

The final findings of the CCA sector inquiry indicated no likely competition concerns in the form of collusive practices or cartels in the fuel sales market in Croatia.

However, given the received responses of certain undertakings that participated in this market study, the CCA will continue to monitor the motor fuel sales market and take necessary steps in the event of suspected infringements of competition rules.



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Enforcement of the rules on the prohibition of unfair trading practices in the business-to-business food supply chain

With respect to the enforcement of the rules in the area of unfair trading practices in the business-to-business food supply chain, that is to say, the UTPs Act, in 2023 the CCA resolved 50 cases, thereof 7 administrative cases and 43 non-administrative cases.

In 2023, the CCA closed seven administrative cases under the provisions of the UTPs Act. In five decisions thereof the CCA found that the party to the proceedings used its strong

bargaining power and imposed on its suppliers unfair trading practices. For the infringements concerned the CCA imposed fines, whereas it terminated the proceedings in two cases where there were no legal grounds for any further action. Six administrative cases were initiated following the market research in the agricultural and food product sector. Based on the collected and analysed documentation and data of this market research, indications were found for the initiation of ex officio administrative proceedings. One administrative proceeding was initiated following an anonymous complaint. In the area of unfair trading practices, the CCA has also been receiving a large number of queries, mostly anonymous, from natural and legal persons that have not been directly involved in concrete administrative (investigation) cases. Within its powers, in these non-administrative cases the CCA requires information, documentation and written explanations directly from the alleged infringers and investigates into possible circumstantial evidence for the opening of an administrative proceeding.

From 1 January 2023 to 31 December 2023, the CCA imposed fines totalling EUR 81,500 for the infringements of the UTPs Act. During the same period, EUR 42,491 in fines was paid into the State Budget of the Republic of Croatia. These payments were made for two infringements found by the CCA in 2023 and three infringement cases that had been closed in previous years.

50
resolved cases

7
administrative cases

43
non-administrative cases



Example of unfair trading practices case

CCA V PLODINE, D.D., RIJEKA



Considering the gravity, scope, duration and effects of the infringement on the supplier, but taking into account a number of mitigating circumstances, the CCA decided to impose a fine in the amount of EUR 30,000.

The CCA fined the retailer of food and agri products PLODINE d.d. from Rijeka EUR 30,000 for the infringement of the Croatian Act on the prohibition of unfair trading practices in the business-to-business food supply chain (UTPs Act). The CCA opened ex officio infringement proceeding against PLODINE with the view to establishing whether it used its strong bargaining power and imposed unfair trading practices on its supplier of agri and food products.

The investigation showed that PLODINE used its strong bargaining power and imposed unfair trading practices on one of its suppliers of agri and food products.

Concretely, the investigation found that in the period from 3 April 2018 to 27 December 2018 PLODINE traded with its supplier on the basis of a purchase agreement that did not clearly and explicitly state the place of delivery of agri or food

products and the deliveries were carried out in two different locations that were not agreed under the purchase agreement.

In the period from 4 August 2018 to 30 October 2018, PLODINE made payments to its supplier exceeding the period of 60 days from the day of the delivery of the agri or food product and exceeding the statutory deadline of 30 days for fresh agri and food products, which constituted an unfair trading practice under the UTPs Act.

Considering the gravity, scope, duration and effects of the infringement on the supplier, but taking into account a number of mitigating circumstances, the CCA decided to impose a fine in the amount of EUR 30,000. The CCA found that the fine would have a deterrent effect not only on PLODINE but also on other actors in the food supply chain.

Judicial review

Against the decision of the CCA in the area of antitrust and merger control no appeal is allowed but the dissatisfied party can take action against the decision of the CCA by filing a complaint for an administrative dispute at the High Administrative Court of the Republic of Croatia within 30 days from the receipt of the decision. The claim shall be decided over by a panel of three judges with respect to the following points:

- misapplication or erroneous application of substantive provisions of competition law,
- manifest errors in application of procedural provisions,
- incorrect or incomplete facts of the case,
- inappropriate fine and other issues contained in the decision of the CCA

Against the decision of the CCA identifying an infringement of the Competition Act and Article 101 or 102 TFEU and imposing a fine, a claim may be filed by the injured party to the proceeding, whereas against the decision of the CCA on the basis of which the initiative for the initiation of the proceeding is dismissed due to lack of standing to act, or where the proceeding is terminated, a claim may be filed also by the complainant, in other words, any person who has been granted the same procedural rights that are enjoyed by the complainant.

Against the decision of the High Administrative Court of the Republic of Croatia rejecting the claim of the claimant in an administrative dispute and confirming the legality of the decision of the CCA, a constitutional complaint can be filed in cases regulated by the Constitution of the Republic of Croatia. For example, when the dissatisfied party believes that their right to a fair trial has been violated (Article 29 paragraph 1 of the Constitution of the Republic of Croatia) or when they believe that there has been a violation of the legality of individual acts of the state administration and public authorities and their judicial control (Article 19 of the Constitution of the Republic of Croatia). It must be noted here that exclusively the CCA lawyers represent the CCA in courts in the proce-

In 2023 the High Administrative Court took a total of 6 decisions. In every single decision it dismissed the claim of the claimant and upheld the decision of the CCA in its entirety. Thereby, all the decisions of the CCA became legally valid.



dings carried out against the decisions of the CCA. Against the decision of the CCA in the area of unfair trading practices in the business-to-business food supply chain no appeal is allowed but the party may take action against the decision of the CCA by filing a complaint for an administrative dispute at a competent administrative court regarding: (i) the violation of material law in the area of unfair trading practices in the food supply chain, (ii) manifest errors in application of procedural provisions, (iii) incorrect or incomplete facts of the case, and (iv) inappropriate fine and other issues contained in the decision of the CCA.

The High Administrative Court decides in the second instance. A lawsuit against the decision of the CCA does not postpone the enforcement of the decision, save for the part of the decision relating to the imposed fine. Similarly, the lawsuit against the decision of the CCA challenging the procedural issues does not stop the course of the procedure, whereas all the disputes before the competent administrative courts initiated in the sense of the Competition Act and the UTPs Act are urgent.

Regarding the lawsuits filed against the infringement decisions of the CCA, where the CCA found that the traders, buyers and/or processors committed an infringement of the 2017 UTPs Act and fined the undertakings concerned, one competent administrative court rendered one judgment in 2023. In that judgment, the court rejected the plaintiff's claim for annulment of the CCA decision, as well as the claim for reimbursement of administrative litigation costs. The plaintiff filed an appeal against this judgment with the High Administrative Court of the Republic of Croatia. The decision on the appeal has not yet been rendered.

International cooperation



In 2023 international activities involved vibrant multilateral cooperation and bilateral contacts with competent authorities in and outside the EU. At the same time, the CCA continued its activities in the multilateral cooperation forums.

CCA and OECD

After the Republic of Croatia received the candidate status in January 2022, the CCA further intensified its activities regarding the negotiations on the full membership of the Republic of Croatia in the OECD. After the CCA filled out an initial comprehensive questionnaire on the institutional and legislative framework in the area of competition and the CCA enforcement record, first OECD mission followed in Zagreb in February 2023. The OECD prepared then the pre-accession report which was discussed in early December 2023 in Paris during the Global Forum on Competition.



The CCA collaborates with the OECD twice a year within the framework of the Competition Committee, where the CCA has held participant status since June 2016, and once annually at the Global Forum on Competition, where participation is open to all global jurisdictions regardless of the OECD membership. The meetings of the Committee are structured as a series of roundtables and discussions based on written and oral contributions from the participants. In 2023, the topics included: communicating the benefits of competition interventions, the future of effective leniency programmes, the relationship between competition and innovation, algorithmic competition, advantages and disadvantages of competition welfare standards, competition in the circular economy, theories of harm for digital mergers, competition and sports, optimal design, organization, and powers of competition authorities, serial acquisitions and industry roll-ups, competition and innovation, and out-of-market efficiencies in competition enforcement.

At the meetings held in Paris in June 2023, the CCA delegation, led by the president of the Council, Mirta Kapural, PhD, LL.M., contributed with written and oral submissions on the topics "Communicating the Benefits of Competition Interventions" and "The Future of Effective Leniency Programmes,"

while also presenting the CCA 2022 Annual Report. The December Committee meetings were followed by the OECD Global Forum on Competition, where the CCA was represented by the president of the Council, Mirta Kapural, PhD, LL.M., and the head of the International and European Cooperation Department, Branimira Kovačević, MA.

On the sidelines of the Global Forum, a meeting of agency leaders from the countries participating in the OECD-GVH Regional Centre in Budapest was held, along with a separate meeting dedicated to Croatia's OECD membership negotiations.

In addition, regular seminars were organized by the OECD-GVH Regional Centre for Competition in Budapest, attended by the representatives of the CCA expert staff. The topics of these seminars included mergers in times of uncertainty, competition policy and intellectual property rights, competition advocacy, cartel detection tools etc.

The CCA representatives continued to participate in the joint OECD-SIEMENS project entitled "Fair Market Conditions for Competitiveness," which aims to support the creation of a level playing field for all undertakings in three pilot countries of the Adriatic region (Bosnia and Herzegovina, Croatia, and Serbia) to enhance competitiveness in a sustainable and inclusive manner.

Furthermore, in 2023, the CCA was engaged in drafting of the proposal for the Technical Support Instrument (TSI) project. This project aims to raise awareness and train all stakeholders in the public procurement system about the necessity of compliance with competition rules. It will be implemented in cooperation with the authorities from Austria, Bulgaria, Cyprus, Greece, and Romania for all the stakeholders involved in combating bid rigging in public procurement, supported by the experts from the OECD and the European Commission.

COOPERATION BETWEEN THE EU AUTHORITIES

WORKING BODIES OF THE COUNCIL OF THE EUROPEAN UNION AND THE EUROPEAN COMMISSION

Within the framework of the working group for competition, a total of six meetings were held in 2023 under the Swedish

and Spanish presidencies of the EU Council. These meetings addressed current topics such as: the evaluation of Council Regulation (EC) No. 1/2003, the review of the initiative under Article 102 TFEU, the package for further simplification of merger review procedures, the revision of the notice on market definition, and the implementation of the Digital Markets Act (DMA).

The Regulation (EU) 2022/1925 of the European Parliament and of the Council on contestable and fair markets in the digital sector (Digital Markets Act) - DMA entered into force on 1 November 2022 and started to apply on 2 May 2023. The DMA was transposed into the Croatian legislative framework by the Regulation on the implementation of the Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022 on contestable and fair markets in the digital sector and amending Directives (EU) 2019/1937 and (EU) 2020/1828 (Digital Markets Act); OG 131/23, that entered into force on 11 November 2023. The competent authority for its implementation has been defined in Article 3 thereof as the Croatian Competition Agency.

EUROPEAN COMPETITION NETWORK (ECN)

ECN operates as a network established by the European Commission (EC) and national competition authorities with the aim of achieving maximum consistency and convergence among different jurisdictions in the application of EU competition law.

The trend of numerous requests for information exchanged between the agencies through the ECN2 network continued in 2023. The CCA received and replied to 85 requests for information (which is on average 3.2 requests per Member State) and sent six requests to other Member States. In this way, the CCA advocates active cooperation between the Member States. In the period from 1 January to 31 December 2023, 23 representatives of the CCA participated in meetings of working groups, subgroups and advisory committees, a total of 60 times. During the year, 360 merger notifications were received and resolved by the European Commission.

Two meetings of the heads of the EU national competition authorities were held in June and November 2023. At both meetings, the CCA was represented by Mirta Kapural, PhD, LL.M, president of the Council. The topics of the meetings of the heads of national authorities were the implementation of the Act on Digital Markets (DMA), coordination of the implementation of the DMA with the implementation of competition law, assessment of the Council Regulation (EC) 1/2003, Article 102 TFEU, experience of the national competition authorities in the enforcement of the powers under the ECN+

Directive, inflation in the food sector. The president of the Council, Mirta Kapural, PhD, LL.M, held a paper juxta-positioning the national measures and inflation from the point of view of the CCA. In the ECN working groups, the CCA actively participated in revising the expiring rules, which, based on consultations and analyses, were either repealed or updated to better adapt to the digital economy and recent case law, thereby enhancing legal certainty for European businesses.

On 1 June 2023, the European Commission adopted the revised block exemption regulations for horizontal agreements, specifically those on research and development (R&D) and specialization agreements. These were accompanied by updated Horizontal Guidelines based on a detailed evaluation of the existing rules. The revised regulations and guidelines provide clearer and updated guidance to help businesses assess the compliance of their horizontal cooperation agreements with EU competition rules.

This includes revisions for R&D and specialization agreements as well as new chapters addressing sustainability objectives, data sharing agreements, mobile infrastructure sharing agreements, and bidding consortia.

On 10 July 2023, the European Commission adopted the rules for implementing the Foreign Subsidies Regulation. The implementing regulation details procedural aspects of enforcing the Foreign Subsidies Regulation, including forms for notifying concentrations involving foreign financial contributions and foreign financial contributions in public procurement procedures.

The European Commission package adopted on 20 April 2023 for further simplification of merger review procedures under the EU Merger Regulation came into force on 1 September 2023. The package includes the revised Implementing regulation, the Notice on simplified procedure, and the Communication on document transmission.

The revision of the Regulation 1/2003 is still ongoing, and the new Commission will define the direction and scope of potential amendments.

INTERNATIONAL COMPETITION NETWORK (ICN)

ICN is a voluntary, project-oriented informal network that addresses common issues related to the enforcement and promotion of competition law. As a global organization with more than 140 member countries, in-person meetings are rare, and activities are predominantly carried out virtually through thematic working groups, information exchange via questionnaires, webinars, and teleconferences.

The Annual ICN Conference was held in Barcelona from 18 - 20 October 2023. It was organized by the Spanish competi-



tion authority and brought together a record number of participants, with representatives from approximately 100 national competition authorities as

well as many non-governmental participants mainly from academia, legal practice, and professional associations. Croatia was represented by the president of the Council Mirta Kapural, PhD and the vice-president, Vesna Patrlj, LL.M. Mirta Kapural, PhD moderated a plenary discussion entitled "Anti-cartel enforcement in the digital era: Building effective case teams to meet new challenges".

Two special workshops were held for the heads of the agencies on the topics: Artificial Intelligence and Market Competition led by Lina Khan, chairwoman of the FTC, and on the topic of Sustainability and Competition. Furthermore, due to the need of the digital market and the new approach and new experts in competition authorities, a new working group of ICN, ICN agency technologists, was recently established, which includes agency technologists, data scientists, digital experts and similar technology profiles.

The goal of this new forum is to facilitate the exchange of information and connect the groups of technologists.

BILATERAL COOPERATION



Mirta Kapural, PhD, LL.M, president of the Council, and Irakli Lekvinadze, PhD, president of the Georgian Competition Agency, signed a cooperation agreement during the ICN Conference in Barcelona on 20

October 2023. The purpose of this agreement is to promote cooperation between the agencies of these two countries in the enforcement of competition law and policy, as well as to exchange expert experience and information on specific cases from their practice.

The CCA has already signed bilateral agreements with competition authorities from Albania, Austria, Bosnia and Herzegovina, Bulgaria, Montenegro, Kosovo, Hungary, Romania, North Macedonia, Serbia, and Turkey.

Conferences and meetings, communication strategy, advocacy and training

Transparency of the operations of the CCA and its communication with the public is achieved through different communication channels. Through different communication channels the CCA actively promotes competition law and policy, as well as the prohibition of unfair trading practices in the food supply chain, thereby ensuring transparent and open communication with the public.

This includes publishing of all its decisions, press releases, providing trainings for businesses and consumers, and responding to inquiries from stakeholders, all of which are made available on the CCA website.

CONFERENCES AND MEETINGS



The Czech Office for the Protection of Competition organized its traditional annual St. Martin Conference in Brno on 8 – 9 November 2023, with the

aim of exchanging experience in the field of antitrust and unfair trading practices in the agricultural and food supply chain. The representatives of the CCA presented the legislative framework regulating the unfair trading practices in the food supply chain in Croatia. They shared statistical data, highlighted the positive effects of the enforcement of the UTPs Act, discussed challenges encountered during its application, and presented two case studies in which buyers (retailers) were found to have engaged in unfair trading practices and were fined.



The Austrian Federal Competition Authority organized the first regional meeting of enforcement bodies in the field of unfair trading practices

with the goal of sharing experience in combating unfair trading practices in the agricultural and food supply chain. The

meeting was held in Vienna on 14 February 2023, where the representatives of enforcement bodies entrusted both with antitrust and unfair trading practices—Slovenia, the Czech Republic, Romania, and Croatia—were invited.

On 26 June 2023 in Maribor the Slovenian Competition Protection Agency hosted the second regional meeting in the field of unfair trading



practices. The representatives from the Czech Republic, Austria, Poland, and Croatia discussed the ways of how to enhance cooperation within the EU, face the challenges of cross-border collaboration between enforcement bodies, conduct and use market research results and share practical experience in the implementation of the rules concerned.

COMMUNICATION STRATEGY

In compliance with the principles of transparency, independence, neutrality and professionalism in the communication with the parties and the public, in line with its publicly available Communication Strategy, the CCA continues to publish on its website its decisions, opinions and annual reports, relevant articles written by its experts and press releases about the opened and closed cases.

The representatives of the CCA are present in the media and maintain contact with the journalists. The CCA publishes different related content and newsletters, and its representatives participate in conferences, trainings and workshops as paper holders or participants covering the specific matters in the area of competition law and policy and unfair trading practices. All press releases, the legislative framework and summaries of the CCA decisions are translated into the English language and published on the CCA website.

Raising awareness about the benefits that competition brings to citizens is achieved through communication activities that showcase the work of the CCA using available commu-

nication channels, such as its website and the monthly e-bulletin AZTNInfo. This publication presents CCA decisions and activities in a simple and accessible manner for both the general and professional public, while also sharing interesting information and topics related to competition law from the EU and globally. It is sent electronically to the subscribers and published on the CCA website, where all past editions are archived and available. In 2023 ten issues of the e-bulletin AZTNInfo were published.

Activities to modernize and further improve CCA communication continued throughout 2023. During the reporting period, the redesign of the existing website was completed to align it with current guidelines, along with ongoing sharing of news, insights, and trends in competition law on the professional social network LinkedIn.

ADVOCACY, TRAININGS AND WORKSHOPS

In addition to organizing one international conference, the CCA experts held papers and gave lectures at other conferences, workshops, and seminars hosted by higher education institutions (law and economics faculties in Croatia), the Croatian Competition Law and Policy Association, the State School for Public Administration, and other professional associations. This extended the CCA communication from the general public to specialized and qualified audience, including businesses, the judiciary, legal professionals, and academia.

On 5 April 2023, following the invitation of the State Commission for the Supervision of Public Procurement Procedures (DKOM), the representatives of the CCA, led by the president of the Council, Mirta Kapural, PhD, LL.M, conducted a training session for the DKOM employees. The training focused on the CCA powers, specific instruments used in CCA procedures and cartels, with particular emphasis on prohibited agreements in public procurement procedures, including a concrete case from the CCA practice.

This training was part of the implementation of the cooperation agreement between the CCA and DKOM signed in 2022, which, among other provisions, included mutual expert and technical support in resolving specific cases falling under the jurisdiction of the contracting parties, as well as the joint organization of training sessions, professional gatherings, and conferences.

The president of the Council, Mirta Kapural, PhD, LL.M, delivered some twenty lectures and presentations and participated in workshops and panels at professional gatherings throughout 2023. Some highlights include: a lecture for students at the Faculty of Law and Faculty of Economics and Business, University of Zagreb in March 2023; participation in a panel during Slovenia's Competition Day in October 2023; atten-

dance at the ECA meeting in Lisbon in March 2023, where she took part in discussions on competition and inflation, and the role of competition authorities in digital markets; two presentations at Kosovo's Competition Day in October 2023; and a presentation on the CCA practices at a high-level expert group organized by UNCTAD in July 2023.

The Croatian Competition Law and Policy Association and the Faculty of Economics and Business, University of Zagreb, supported by the CCA, organized the eighth international conference in memory of Professor Vedran Šoljan, under the title "Goals of Competition Law and the Changing World." The conference was held in Dubrovnik from 25 – 27 May 2023, bringing together all stakeholders involved in the application of competition law, including judges, lawyers, corporate attorneys, other legal practitioners, and companies.

On 10 November 2023 the CCA, in collaboration with the OECD, organized a workshop on the importance of combating bid rigging in public procurement. The members of the Council and employees participated and featured examples of how to identify markets more susceptible to bid rigging, detect bid-rigging practices (red flags), and minimize the risks of bid rigging.

On 5-6 October 2023, a two-day seminar on the latest trends and developments in enforcing competition law regarding prohibited agreements and cartels was held in Zagreb at the premises of the Croatian Employers' Association. The seminar was organized by the Academy of European Law (ERA) and the CCA. Special emphasis was placed on the new Court of Justice case law, the investigations conducted by the European Commission, new EU horizontal guidelines, the significance of leniency statements and settlements in combating cartels, and the challenges posed by the digital age in addressing prohibited agreements and cartels.





Cooperation with other institutions

Recognizing the importance of cooperation with the stakeholders in the implementation and promotion of competition law, the CCA maintained intensive cooperation with various institutions throughout 2023.

COOPERATION AGREEMENT WITH THE FACULTY OF ECONOMICS AND BUSINESS, UNIVERSITY OF ZAGREB

On 1 March 2023 the president of the Council, Mirta Kapural, PhD, LL.M., and the dean of the Faculty of Economics and Business, University of Zagreb, Sanja Sever Mališ, PhD, ass. Prof., signed a cooperation agreement sharing the understanding that competition law is crucial for anyone operating in the EU market, including the students of the Faculty of Economics and Business who will one day participate in the EU market in their professional roles.

Under this agreement, the parties will collaborate through various activities, particularly by linking academic knowledge with practice, conducting joint educational programs, and enhancing student expertise in competition law.

The agreement includes training programmes led by the CCA experts, information sharing on relevant professional events, and joint organization of professional gatherings, roundtables, and conferences.

COOPERATION AGREEMENT WITH THE FACULTY OF LAW, UNIVERSITY OF ZAGREB

On 6 June 2023 Mirta Kapural, PhD, LL.M., president of the Council, and Prof. Ivan Koprčić, PhD, LL.M., dean of the Faculty of Law, University of Zagreb, signed a cooperation agreement. The agreement reinforces the necessity and readiness for joint efforts to enhance the educational system and promote knowledge of competition law and policy.

This collaboration will involve various activities, with particular emphasis on student training in competition law. It includes guest lectures by the CCA experts during classes, student education programs led by the CCA experts, occa-

sional student visits to the CCA, student internships at the CCA, and joint educational programmes and lectures.

COLLABORATION WITH THE PARLIAMENTARY ECONOMIC COMMITTEE

The cooperation with public and governmental bodies continued effectively in 2023. On 15 November 2023, Žarko Tušek, president of the Parliamentary Economic Committee, visited the CCA.

The purpose of this working visit was to meet with the Competition Council and the heads of the CCA staff and gain a more detailed insight into the operation of the CCA.

During the meeting, the heads of staff briefly explained the daily challenges they face, primarily due to insufficient resources and an increasing workload, and explained how each department of the CCA functions.

The discussion also covered the CCA activities that include sectoral inquiries aimed at better understanding of the structure of any specific market that in some cases could detect market failures and possible infringements.

Mr. Tušek welcomed the collaboration between the government authorities and praised the CCA for its accomplishments. He also expressed a desire for such working meetings to be held more frequently.

ACCESS TO INFORMATION

The CCA commitment to transparency is complemented by its adherence to legal obligations regarding the right to access information, as outlined in the Croatian Act on the Right of Access to Information.

The CCA ensures this right by regularly publishing decisions under its jurisdiction, along with press releases, opinions, general and internal acts on its website, and by providing information to individuals who submit requests for access to information.



CCA archive digitization

In 2023 the CCA successfully completed the process of digitizing its archival and documentary records, a project undertaken in collaboration with the Croatian State Archives. Initiated in 2018, the project involved scanning over 30,000 case files or 70,000 documents, resulting in more than 500 GB of digital material.

Notably, the digitization project was completed with no additional costs. On 18 January 2023 the Ordinance on managing the CCA archival and documentary records was adopted and approved by the Croatian State Archives on 26 January 2023. Additionally, during the same year, several disposals of expired records were carried out with the prior approval from the Croatian State Archives.

The CCA has been successfully integrated in the "ZUP IT" system (IT system for monitoring of the enforcement of the General Administrative Procedure Act). Currently, data entry is not automated and requires active involvement of all officials or case handlers. This system provides the relevant authorities with a detailed overview of the status of any administrative proceeding, contributing to improved efficiency, transparen-

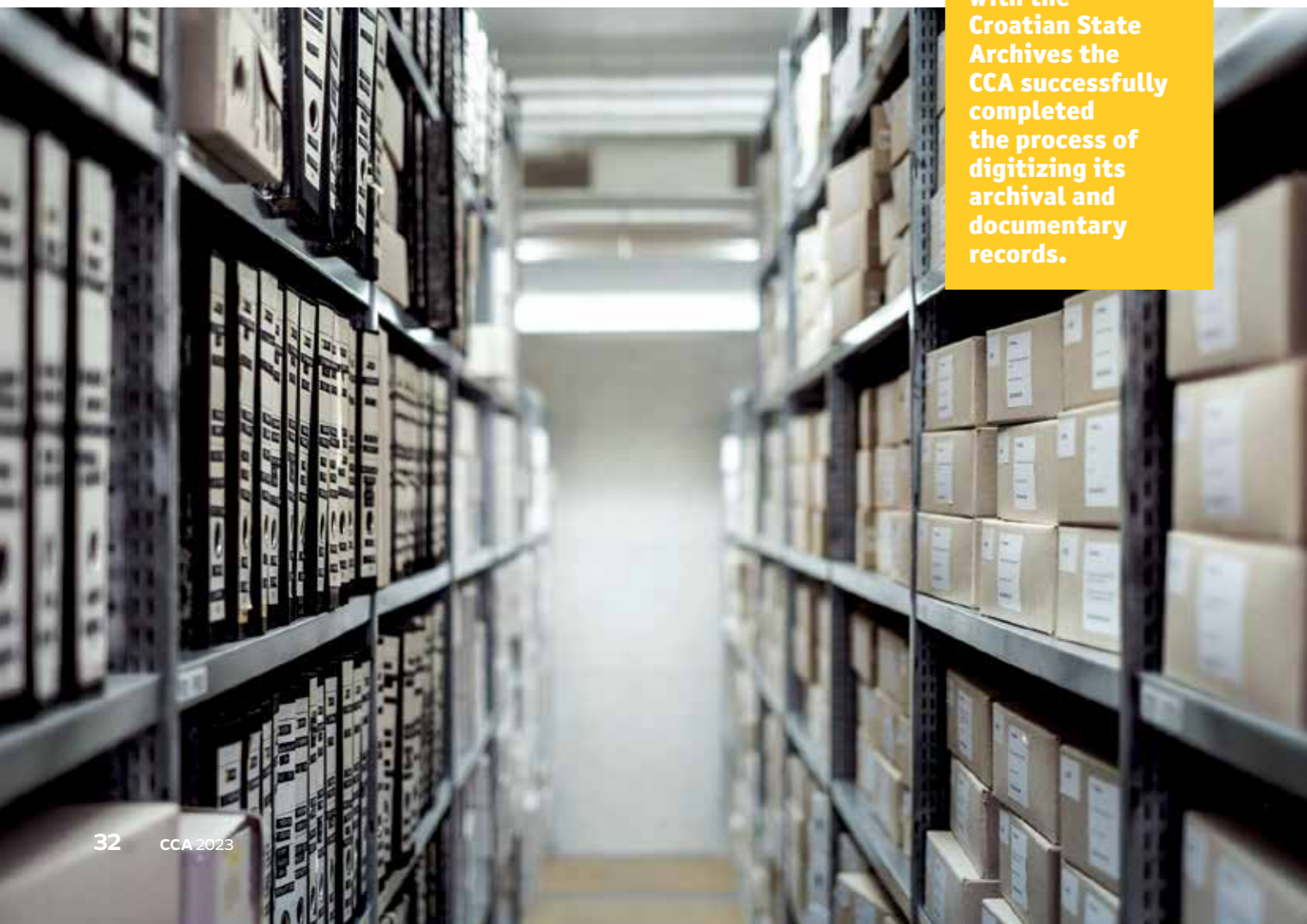
cy, and legality in the administrative procedures conducted by the CCA.

The "ZUP IT" system also enhances communication between public authorities and parties involved in the proceedings. Through its functionalities, any party has access to information about the status of their case, reducing unnecessary inquiries and facilitating collaboration among participants in administrative processes.

Furthermore, the system's ongoing upgrades and adjustments allow for the introduction of new functionalities and improvements in line with the legislative changes or the user needs.

Hence, the "ZUP IT" system represents a significant step toward the modernization of public administration, offering tools for the efficient implementation of the laws, the improved communication with the citizens and businesses, and fostering trust in public institutions.

In 2023, in collaboration with the Croatian State Archives the CCA successfully completed the process of digitizing its archival and documentary records.



Social responsibility in CCA

Social responsibility aims to meet increasingly challenging ethical, environmental, legal, and public standards.

Regarding the ethical responsibility, the CCA has appointed an ethics commissioner and adopted a code of ethics. In daily operations, employees prioritize environmental protection, while CCA has its wastepaper disposed and documents containing business secrets destructed.

In terms of legal and public standards, all job advertisements are public, inquiries made by the parties, journalists and citizens are promptly answered, the decisions made by the CCA are published on its website. Business operations are guided by the principles of efficiency, sustainability and effectiveness as fundamental principles in the management of administrative organizations.

The CCA social responsibility is demonstrated by fulfilling all legal obligations while investing in human capital, the environment, relationships with third parties, and the reduction of operating costs.

In human resources management, the CCA implements the gender equality strategy providing equal opportunities for men and women. This means equal access to career advancement, further education and professional development. Men and women are equally paid for equal work.

In its daily operations, the CCA strives to conduct all business activities in line with best European practices and actively promote social responsibility.



Organizational structure

On 31 December 2023 the CCA had

53
employees

5
major organizational units

Competition Council - 3 lawyers and 1 economist

Office of the Council - 1 economist

Office of the Chief Economist - 2 economists

Competition Division - 12 lawyers, 12 economists and 2 IT-experts

Unfair Trading Practices Division - 5 lawyers and 5 economists

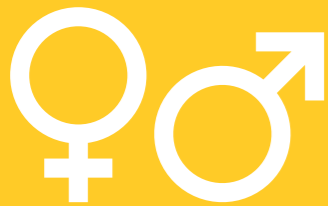
General Affairs Division - 2 lawyers, 2 economists, 2 MAs in humanities, 1 MA in public administration, 1 administrative lawyer, 1 clerk and 1 driver.



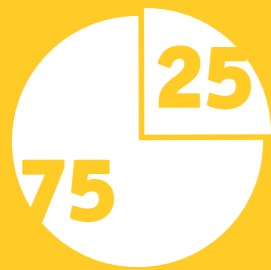
The majority of the CCA employees hold a university degree. No less than **23%** of employees hold a **post graduate degree** whereas **75%** hold a **graduate degree**, **2 employees** have a **secondary vocational education**.



Most employees, **a total of 80%**, hold a **master's degree in law or a master's degree in economics**. All legal professionals acting as case handlers must pass the Bar exam. Additionally, to conduct the proceeding involving the imposition of fines, a minimum of four years of work experience after passing the Bar exam is required.



The average age of CCA employees is **45**. There are **32 women** and **21 men** employed.



CCA SEX STRUCTURE in 2023

There are more women (60%) than men employed in the CCA. **The non-discrimination principle** requires equal treatment of an individual or a group based on improvement of employability for those facing labour market challenges. There are **64% women in leading positions** and **75%** of the **members of the managing body of the CCA** (including the president of the Council) are women.

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