

Press Release

Competition Protection Office adopts first decision regarding violations of Articles of the EC Treaty concerning abuse of dominant position on the market for organisation of systems for the collection and recycling of commercial packaging waste by Slopak d.o.o.

On 21st December 2006, Competition Protection Office adopted a decision finding that Slopak d.o.o., has abused its dominant position on the market for organisation of systems for the collection and recycling of commercial packaging waste by preventing its customers on the relevant market from freely joining another system indirectly with its actions and directly based on the articles of Standard Agreement and in particular with:

- requiring customers to participate in the system with all of their packaging waste and both household and commercial packaging waste combined with the threat of sanctions for failing to participate during the year with the amounts of waste notified in advance (Articles 11 and 18(6) in connection with Article 19(6) of the Standard Agreement) aggravated by the 12 months notice requirement, for exiting the agreement entered into for indefinite time, at the end of every quarter (Article 25 of Standard Agreement);
- requiring customers to enter its system if their packaging waste put on the market on the territory of Republic of Slovenia bears green dot mark (in connection with Articles 14, 15 and 26(3) of Standard Agreement).

Competition Protection Office finds that the above described actions represent infringement of Article 10 of the Prevention of Restriction of Competition Act as well as Article 82 of the EC Treaty.

With the accession of Slovenia to the European Union on the 1st May 2004, Competition Protection Office was given powers to apply community competition rules, that is Articles 81 and 82 of the EC Treaty. Under this obligation, under Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty, Competition protection Office has to apply Articles 81 and 82 of the Treaty in cases where companies actions may affect trade between member states. Competition Protection Office finds that actions of Slopak d.o.o. affect trade between member states, since they have exclusionary effect on entry of any potential competitors to Slovenian market, including companies from other member states and that the abuse has affected a substantial part of the common market, since it affects whole territory of Slovenia.

The case was initiated ex-officio based on the information received from the competitor Interseroh d.o.o. concerning two possible abuses:

- prevention of customers on the relevant market from freely joining another system;
- cross-subsidisation.

Competition Protection Office concludes in its decision that Slopak d.o.o. has abused its dominant position regarding prevention of customers on the relevant market from freely joining another system and requires Slopak d.o.o. to:

- within three months time, amend agreements concluded with its customers in such a way to offer them possibility of entering into agreements regarding only one kind of waste packaging and only for the amount of packaging waste determined in the agreement, with disregard for current notice period in existing Standard Agreements;
- within three months time, change the length of notice period in Standard Agreements, so that it is possible for customers to exit system at the end of every quarter with the notice period running until the end of the current year;
- within 1 year, to settle its relationship with other waste management systems regarding the use of green mark dot in accordance with License Agreement.

Regarding cross-subsidisation allegations, Competition Protection Office finds that the currently available information does not support the allegation. Therefore Competition Protection Office has decided that for the time being there is no basis for further assessment of this allegation and closed the proceedings.

Andrej Plahutnik, Director