

**Croatian Competition Agency**

**ANNUAL PLAN  
2010 - 2011**

**Zagreb, 25 February 2010**

## President's introduction

Effective competition regime and efficient competition enforcement are based on three interrelated components.

First, a legislative framework consisting of basic competition rules, measures and penalties for those who do not comply with the rules must be established. In Croatia, this component comprises the Competition Act, the State Aid Act and other subordinate regulations and bylaws regulating the areas concerned in more detail.

The second component which is as important as the first one mentioned above is competition enforcement. The prerequisite of efficiency of competition enforcement is the existence of an independent body, its organizational structure and staff which ensure delivery. In practice, it means carrying out of complex market studies and investigatory and evidentiary proceedings, sanctioning the infringements of competition rules which prevent, restrict or distort competition and harm the consumers.

Both above mentioned components are indispensable for an effective competition regime and efficient enforcement of competition law. The best legislative framework would remain a dead letter if there was no skilled and well-managed organization capable of effective delivery. On the other hand, no well-run organization, no expert staff and its knowledge, skills or thriving, could not make up for the possible shortcomings and loopholes in legislation.

The third, particularly important component of an effective competition regime is the enforcement authority – an independent and impartial body which is accountable to the public. In Croatia this is the Croatian Competition Agency (CCA). Albeit independent, this in no way means that the Agency exists isolated and uninformed, detached from its environment. Quite the opposite, the Agency is fully aware of the regulatory environment and market conditions in which the legislative framework is implemented. Its role is proactive, focused on the necessary revisions of those rules which prevent developments in the market and strengthening of competition to the disadvantage of the consumers. The Agency must also participate in drafting of new legislation and work in partnership with other organizations with powers regarding the competition issues in specific sectors or markets, where improvements may be achieved on the basis of new or revised legislation.

Under ideal conditions an institution like the Agency is expected to ensure or restore effective competition by right interventions in the right market, addressing right issues at the right time and using the best tailored measures. In other words, the intervention of the Agency should be predictable and earmarked for the particular problem, whereas the measure concerned must be specifically tailored and proportionate to the seriousness of the offence.

In addition, these interventions, measures and commitments must be easily

recognizable and generally acknowledged. They must create "critical mass" of followers who will on a daily basis witness how the activities of the Agency contribute to the market development, delivering outcomes for consumers and businesses and strengthening competition as a whole.

Yet, the set goals and objectives are not easily achieved in a real world and under real circumstances. Limited resources and administrative capacities are the key challenges of the Agency on the way to improving decision making in the real world and facing the real environment. Thus, it could not be expected that the Agency would be capable of addressing absolutely all issues and potential competition cases in the Croatian market, reacting to all infringements and unfair practices and helping all who suffer the consequences of such anticompetitive behaviour. Where the Agency stands in the way to those which are more powerful and influential and allegedly hinders their operation, it may be rather a difficult task to outweigh such allegations.

The Annual Plan 2010 – 2011 thus defines the strategy and sets the priorities in the work of the Agency in the following two years, with the view to accomplishing its mission and fulfilling its objectives. At the same time, our commitment to transparency and openness means to inform the stakeholders with the strategy mission and the priorities in the work of this institution.

The Annual Plan 2010 – 2011 includes the dual competition (assessment of restrictive agreements, establishment of abuse of a dominant position, control of mergers) and state aid control (authorisation, monitoring the implementation and recovery of state aid) remit of this Agency.

The Annual Plan 2010 – 2011 has been adopted to cover the two following years keeping in mind the strategic planning which is in the area of competition justified only in the long-term phase. What is more, 2011 will by all indications be the last year before the accession of the Republic of Croatia to the EU. Once Croatia becomes the EU member state the Croatian Competition Agency will operate under completely new circumstances and in a changed environment. On this account a strategy statement covering a longer period of time would be inappropriate.

Olgica Spevec,

President of Competition Council

## **Mission, vision and objectives of the Croatian Competition Agency**

Independence and autonomy of the Agency mean independence, autonomy and impartiality in decision making and application of competition and state aid rules. It has already been noted before in this text that independence and impartiality in no way mean that this body operates isolated from its environment. On the contrary, the Agency faces the challenges from the changing market environment and is fully aware of the regulatory framework when it, within its competences, proposes measures for the development of this environment. In this sense the mission, vision and the objectives of the Agency are clearly set.

**Mission of the Croatian Competition Agency** is implementation of the Competition Act and the State Aid Act with the aim of ensuring a level playing field for all participants in the market regardless of their position in the market, their size and their market power, and a state aid regime which prevents placing certain undertakings to a more advantageous position in the market to those who do not receive state aid. In short, the mission of the Agency is to help the market to operate better. Effective competition should create conditions for economic growth based on efficient allocation and use of limited resources, environmental protection, innovation and investment promoting these objectives. Strengthening of the rule of law in the area of competition and state aid, raising awareness of competition issues and the benefits which fair competition brings to the citizens (consumers and tax payers) in the form of control of the behaviour of the undertakings and the State in the market are indispensable part of the mission and the reason of existence of this Agency.

**Vision of the Agency** is to establish effective competition which will promote long-term economic growth and create conditions for the development of small and medium-sized enterprises, open markets, prevent foreclosure and lift barriers to entry. In other words, our vision is to contribute to the development of the Croatian society by establishing a competition regime to the benefit of the consumers in the form of lower prices, wider choice and better quality of goods and services. Such a regime will promote innovation and encourage undertakings to apply new ideas and new products, adjust their business strategies to demands of the consumers and make investment which will result in job creation and growth.

**Objective of the Agency** is to create a modern approach to the enforcement policy in the area of competition which relies on prevention and sanctioning of anticompetitive practices which harm the consumers and which does not protect the competitors.

## Prioritisation

In the period from 2010 – 2011 which is covered by this Annual Plan the Agency focuses its activities on the necessary preparations and actual enforcement of the new Competition Act which comes in force on 1 October 2010. This new and revised legislative framework in some aspects fundamentally changes the role and the importance of the Agency, strengthens its powers and focuses on preventing and bringing an end to serious misconduct and increasing overall compliance levels. Thus, the Agency has the priorities to:

1. Establish effective tools to combat cartels particularly by a number of investigative mechanisms, such as the "whistle-blower" immunity programme for cartels without which no national competition authority nor the Commission would have detected and sanctioned cartels – hard core agreements between undertakings on the basis of which they fix prices, share markets or in any other way suspend competition, e.g. collective monopoly. Cartels eliminate competition on the market and cause the most serious harm to consumers who due to existence of such agreements pay higher prices of goods or services and enable the collection of a kind of "private taxes" by cartel members.
2. Enable the Agency to focus on high-impact cases involving most serious infringements of competition rules on the basis of the provisions of the new Competition Act which empowers the Agency to carry out proceedings exclusively on its own initiative where dealing with the assessment of restrictive agreements and establishment of abuse of a dominant position.
3. In the assessment of concentrations between undertakings where these concentrations have significant anticompetitive effects the Agency will after it has carried out a thorough economic analysis of the relevant markets, particularly taking into account the interests of the consumers, evaluate and accept commitments proposed by the undertakings concerned to remedy anticompetitive concerns on an effective and sustainable basis. Unless the proposed conditions and obligations are fulfilled within the specified deadline, the Agency will prohibit the implementation of such concentration.
4. The new Competition Act empowers the Agency to impose sanctions and set the criteria for the imposition of fines as laid down in a separate bylaw which will be adopted by the Government of the Republic of Croatia. The main goal to use high-impact enforcement is to sanction the undertaking for the infringement but also to deter businesses from engaging in anti-competitive practices and repeated infringements of competition rules. In practice, the level of the fine must be proportionate to the seriousness, duration and effect of the infringement on the consumers and competing undertakings. The Agency will assess the level of the fine on a case-by-case method, whereas the new Competition Act also provides for

immunity from or reduction of the fine within the new established leniency programme.

5. Ensure that the right to be heard is observed in the proceedings carried out by the Agency. Any undertaking concerned and other persons involved in the proceedings must enjoy the right of defence ensured in written and oral form. The Agency committed itself to transparency and objectivity and every party to the proceedings is entitled to the submittal of the Statement of Objections, has the right of access to files and may file a claim against the decisions of the Agency (the interested parties thereby enjoy the right of access to information).
6. Build upon the good advocacy work carried out to ensure that competition implications and market-based solutions are fully considered where appropriate in the adoption of other legislative acts and work in partnership with other government and non-government institutions at the national and local and regional level. In other words, the Agency will continue to issue opinions on compatibility of other legislative acts with competition and state aid rules (competition advocacy). The new Competition Act substantiated this role of the Agency by empowering it to issue opinions on compliance of the existing rules and not merely of the new legislative drafts with the relevant competition rules. Such a priority is e.g. the revision of the existing provision under the Croatian Criminal Law which currently does not provide for immunity from criminal prosecution for a responsible person of the undertaking who first comes forward and reveals the cartel.
7. In order to implement the new tools and carry out necessary investigations the Agency will have to undergo some structural and functional adjustments. One of the priorities is to create new organisation, strengthen people management skills and adherence to CCA values within the new competences.
8. Further strengthen the discipline of aid providers where they establish aid schemes and grant state aid. It is particularly important to work in partnership with aid providers at the local and regional level with the view to preparing them to the forthcoming EU membership when the state aid control will no longer fall under the competence of the Agency but of the European Commission. Until that time the Agency will maintain its most important role involving the control and use of state aid and collecting the data on the effects of aid so granted and continue to publish the data on state aid making it available to the general public.
9. Close cooperation, share of experience and knowledge between the Agency and similar authorities in the neighbouring countries, CEFTA members and EU member states, and active participation in the work of international organizations and competition networks (such

as ICN, OECD) will in the following two years remain in the focus of the international work of the Agency.

10. Recognize the public interest and acknowledge the role of competition law and policy in the promotion of development of enterprise, raising business and production effectiveness, encourage innovation, raising growth of the Croatian economy and increasing the total welfare, employment, thus delivering real benefits to consumers.

On the account of the forthcoming EU membership the Agency will have to make extra effort to create competition-friendly environment given the changes this membership will bring along for both businesses and consumers, particularly concerning the liberalization of certain markets.

## **Implementation of the new Competition Act**

The new Competition Act which was adopted by the Croatian Parliament on 24 June 2009 and which enters into force on 1 October 2010 introduces a number of novelties in terms of the powers and tools which enable the Agency to target its enforcement activity at areas that pose the most risk to consumers. In line with the new Competition Act infringements of competition rules are no longer treated as minor offences, instead they are considered *sui generis* violations and the Agency is empowered to impose fines for the infringements. The Agency is also empowered to carry out leniency programmes applicable to undertakings who cooperate within the investigation and detection of cartels – hard core agreements between competitors. In addition, a new, simplified procedure treatment is introduced in the area of assessment of concentrations, the Agency is empowered to conduct surprise inspections of the business premises, apartments, land and means of transport and temporary seize the objects. Furthermore, the undertakings parties to the concentration will offer commitments to remedy significant anticompetitive effects as early as during the procedure carried out by the Agency. Right of defence will also be improved – in the course of investigative proceedings and before the oral hearing or the final decision of the Competition Council the parties concerned will be submitted a Statement of Objections. Damages claims relating to the infringements of the Competition Act will fall under the competence of the relevant commercial courts. This clearly and indisputably establishes the right to compensation for undertakings and consumers who suffered damages from the infringements of competition rules.

This poses new tasks on the Croatian Competition Agency. In the following two years the Agency will focus on the following major tasks:

1. Preparation of bylaws dealing in detail with particular provisions of the new Competition Act and their submittal to the Government of the Republic of Croatia for adoption. To this end, the Agency will examine the existing legislative framework in this area and propose the necessary revisions thereof (here are meant the relevant

regulation defining the relevant market, the regulation on block exemption granted to certain categories of agreements and the regulation on agreements of minor importance). At the same time, it will prepare four completely new bylaws:

- Regulation on block exemption granted to certain categories of agreements in the transport sector;
  - Regulation on the method of setting fines and calculation of fines;
  - Regulation on immunity from fines and reduction of fines;
  - Regulation on notification procedure and assessment of concentrations between undertakings;
2. Structural and functional adjustment of the organisation of the Agency in the light of new powers;
  3. Improvements and modernization of the work to ensure swift, efficient and transparent interventions;
  4. Work to ensure that the impact of the Agency's work and the attendant benefits for all participants in the market and particularly the consumers, are more widely known and understood.

## **Changes in the organisation of the Agency**

In order to adapt to the changes brought about by the new Competition Act the Agency will have to carry out some significant structural changes. The first step in that sense will be the adoption of the new Statute which lays down the operation of the Agency and other internal acts which regulate in detail its organization.

Apart from structural, there will also be certain functional changes on the account of the new tasks which have been for the first time entrusted to the Agency. Organization of the Agency will also undergo adjustments given the activities directly related to the preparation of Croatia for the EU accession.

Thus, the organization of the Agency will be adapted to the new tasks which will fall under the competence of this authority pursuant to the new Competition Act. Notably, these are in particular:

1. Collecting evidence in the search of premises and apartments, and seizure of objects;
2. Implementation of leniency programmes in cartel cases;
3. Imposition of fines;
4. Systematically monitor markets and carry out market investigations and economic analyses of certain markets;
5. Prepare for the shift of competence where, after the accession of Croatia to the EU, competition in the banking sector which is currently under the scope of the Croatian National Bank will fall under the competence of the Agency.

The above mentioned tasks require adaptable and agile staff who will be expected to deliver high impact outcomes in the new proceedings carried out by the Agency (such as the implementation of the leniency programmes, imposition of fines etc.).



The reorganization of the Agency will be thorough and fundamental. Given the wider competences on one side, and limited budget it will be necessary to improve the horizontal structure of the Agency in terms of improvements of performance framework and strengthening of leadership and people management skills and teamwork.

### **Establishment of the Office of the Chief-Economist**

As a part of its structural changes the Agency will establish the Office of the Chief Economist.

Given the importance of economic data in competition law and taking into account that economic analysis on a case-by-case-basis is fundamental in investigation of ever more sophisticated infringements all activities of the Agency and measures it proposes must rely on economic expertise, in-depth market investigation and the relevant features of the markets concerned.

In this context, increasing many competition authorities introduce the Office of the Chief Economist. He/she will be in charge of complex and detailed economic analyses and substantive tests of concentrations, involving the assessment of concentrations which have most significant anticompetitive effects, cartel cases or abuse of a dominant position.

Regardless of other organizational and structural changes the Office of the Chief Economist will be an independent unit in the Office of the Competition Council.

### **Rationalization of the Agency**

The Agency is committed to improving its efficiency to ensure it delivers high impact outcomes within the budget and limited human resources. Thus, the key role of the leadership of the Agency is to rationalize and prioritize as long as more must be delivered with less.

In other words, the staff of the Agency will focus on taking high-impact cases and taking into account the legal tools at its disposal – such as *de minimis* rules, simplified procedure treatment in the assessment of concentrations, general block exemption regulation and other EU guidelines and interpretations of competition rules.

As already mentioned above, the Agency will improve its decision making and increase its overall efficiency while maintaining a focus on delivery. It will concentrate on anticompetitive practices of undertakings which hinder or eliminate competition, actually or potentially, and particularly harm the consumer. In order to achieve these goals, the staff will more than before systematically investigate and prepare market studies involving especially sensitive markets in respect of consumer welfare. These market studies will be carried out on a regular basis with the aim to have the data on a specific market and its structure already available at the moment when the particular competition concern occurs. This is where the balance of skills

and experience are central for swift and efficient performance of the Agency in terms of timely decisions and appropriately balanced measures.

At the same time, the Agency will also use the results of its market investigations to inform the executive and legislative branch of the government on its findings and call attention to possible necessary revisions of the rules which regulate the market concerned.

In the area of state aid control the Agency will continue to carry out education of aid providers covering the rules under which state aid may be granted, monitoring of the use and effects of aid. Taking into account the limited resources of the Agency, one of the priorities remains raising awareness among aid providers about scarcity of resources and the necessity of reasonable and responsible allocation and use of the taxpayers' money. Within the framework of the current financial and economic crisis the Agency will in the shortest possible time limits act in line with the requests of aid providers concerning the drafting of aid schemes aimed at elimination or alleviation of the consequences the crisis has had on undertakings and the Croatian economy in general. Flexibility and quick responses in addressing these issues will be the priority of this Agency and its driving force.

However, the rationalization and flexibility of the Agency will in no way affect effective implementation of competition and state aid rules and legal certainty of its addressees thereby ensuring a level playing field for all undertakings in the proceedings carried out by the Agency.

## **Efficiency improvements**

Effective and efficient competition and state aid control may be achieved only on the basis of comprehensive and legitimate proceedings and decision making which sets reasonable or legal time limits.

An important element which contributes to efficiency is a good choice of measures used for the restoration of effective competition and administrative and punitive measures which must be proportionate to the gravity of the infringement. At the same time the decisions of the Agency must be reviewed in the shortest possible period by the competent review court. The Administrative Court of the Republic of Croatia is in charge both of the control of the level of fines and of the legality of the decisions of the Agency. The case law is undoubtedly an imperative in the assessment of efficiency of this Agency. Thus, the mutual efficiency of these two bodies and the effects these decisions produce on undertakings will be measured by their mutual cooperation.

On the account of the fact that the decisions adopted and measures imposed by the Agency must be based on legal and economic analysis of the relevant markets concerned the efforts of the Agency will be aimed at the establishment of a uniform methodological framework for the implementation of these analyses on a case by case basis using the rules contained in the Croatian competition and state aid legislative framework, EU comparative practice and the decisions of the Agency.

## Competition advocacy

### Competition assessment

The competition impact assessment is particularly aimed at strengthening of the position of the Agency in the adjustment of laws with competition and state aid rules.

To this end, the Agency issues opinions on compliance of laws and other rules with the Competition Act and the State Aid Act. These opinions are issued at the request of the ministries and other institutions. In some cases these opinions of the Agency have been recognized, yet, there have been cases where compliance has not been achieved due to different views and objectives.

With the view to officially establishing and strengthening the role of the regulatory impact analysis in respect of competition in the territory of the Republic of Croatia, the Agency will propose to the Government of the Republic of Croatia and the competent ministries a checklist systematically identifying and assessing the expected effects of regulatory proposals on competition.

The test addresses three fundamental questions:

1. Will an option directly or indirectly lead to a reduction of competition in a certain market, particularly by the creation of barriers, emergence of additional restraints for market entrants etc.?
2. Are there any other, less ambitious ways of achieving the same objective?
3. Is the initiative used for accomplishing the objective proportionate to that objective, in the sense of actual and potential costs this might have on other undertakings and consumers?

Thus, the idea of the test is to minimise the possibility of the adoption of initiatives which would lead, intently or negligently, to distortion of competition, producing harm to the consumers and limiting the competitiveness of the Croatian economy. In other words, the test must indicate the direction which must be taken in the adjustment process avoiding any illegal or unnecessary distortion of competition.

To that end, and in accordance with the similar practice of the EU member states and the OECD, the Agency will design a competition assessment toolkit containing general guidelines for the conduct of competition assessment.

It is the opinion of the Agency that the activities relating to competition assessment must be included in the competence of the relevant regulatory impact analysis authority.

### **Shaping the role of the Agency**

The Agency will act to protect the interest of consumers and taxpayers and improve outcomes to their benefit as measured by increases in consumer welfare or other relevant indicators of impact.

In order to be recognized the result of the Agency's efforts must be measurable not only by the number of its interventions but on the merit of its decisions and measures which have been taken producing pro-competitive effects.

The activities of the Agency and its initiatives must be therefore accordingly presented to the citizens, business community and aid providers.

### **Decisions of the Agency and its credibility**

In order to address particular target groups the Agency will pay special attention to clarity of wording used in its decisions and opinions where public interest, pro-competitive effects to make markets work well and benefits for final consumers are recognizable.

The aim of the Agency is to make the advantages deriving from the application of competition rules well known and available to the public. To that end the Agency will:

1. Continue to update and make available the whole legislative framework concerned on its web site ([www.aztn.hr](http://www.aztn.hr)), including the Competition Act, the State Aid Act and other subordinate rules, decisions and opinions of the Agency, but also the relevant parts of the *acquis*, in line with the commitments undertaken by the Republic of Croatia in this area. A new, improved web site is currently under construction and it is expected that it will be available to the users in mid 2010.
2. Given the relatively scarce literature resources covering competition law and policy the Agency is planning to establish its own library offering Croatian and foreign books, journals, brochures, laws and other legislation on competition matters. The library is planned to open in 2010 and under certain conditions it may be open to the public. The list of available titles will be published on the Agency's web site.
3. Improve communication with the media and all stakeholders based on the communication strategy adopted several years ago. The Agency issues press releases which inform the public about its decisions, opinions and comments on certain competition matters. It will work to ensure that the impact of its decisions and benefits for all participants are more widely known and understood among all

interested parties. To that end it will organize, possibly monthly, press briefings and so continue to demonstrate an increasing awareness of its work and role.

## **Education and training**

The Agency needs to actively shape its staff profile to match its strategic goals. It will continue to develop a skilled and professional workforce with access to learning and development opportunities. This is not only in the public interest but in the own interest of the Agency and a prerequisite for the development of competition culture amongst citizens and businesses. It is a two-way process in which further education and training is necessary, both for the staff of the Agency, alone or in cooperation with the experts from abroad, and the interested parties such as business community and aid providers, who need or want to be trained in this area.

The experts of the Agency participate in seminars, internal and open, and visit conferences, home and abroad. They must further be encouraged to improve their skills but also to publish articles, give papers and participate in expert and academic gatherings, international projects and working groups.

A part of this education and training should be carried out under different training and technical assistance projects.

## **2007 IPA Programme**

This is a two-year project financed through EU funds, which aims at improving conditions for implementation of competition and state aid policies in the Republic of Croatia. The project, whose beneficiary is the Croatian Competition Agency, should make a significant contribution to the awareness of citizens on benefits arising from competition and to the development of competition culture.

The first objective is informing students, local authorities and business community on the benefits which competition generates for consumers and tax payers. Following a well established practice, the Agency has already started with preparations of seminars on competition and state aid in cooperation with the Croatian Chamber of the Economy and other institutions, including the Croatian law and economics faculties.

The second objective aims at strengthening of the capacities of the Agency, sector regulators and judiciary for effective implementation of competition and state aid rules in the period before and after the Croatian accession to the EU, notably through the implementation of the *twinning* project which is planned to start in the first half of 2010.

In one part, the *twinning* should prepare the Agency for its future activities in the European Competition Network, whereby the Agency will cooperate with the Italian competition authority as a twinning partner.

In the part dedicated to state aid, the assistance from relevant institutions from the United Kingdom as a twinning partner will focus on enhancing efficiency, timeliness and transparency of Agency's decision making process, as well as on improving providers' definition of state aid. Main objectives of this component are:

- analysis and assessment of rules and their compatibility with the Croatian legislation and the EU *acquis* in this field;
- strengthening the Agency's administrative capacities in the area of state aid control;
- improving state aid awareness among aid providers and businesses.

## **State aid**

State aid control as a part of competition policy has been entrusted to the Croatian Competition Agency in line with the State Aid Act, whereas the Government of the Republic of Croatia and its institutions and regional and local self-government units as aid providers are responsible for state aid policy under which the State financing is directed to specific sectors, towards different objectives, regions and undertakings.

Although, the priorities set under this Programme and other changes which are to be introduced accordingly cover the work of the Agency in respect of state aid, this area of work under the competence of the Agency provides for some specific objectives and tasks.

## **Adjustment of existing state aid**

In cooperation with the competent authorities the Agency will continue to work on the alignment of the existing aid schemes and other legislative acts on the basis of which state aid have been granted before and after the State Aid Act entered into force in 2003.

### **State aid data management system**

In the context of the forthcoming EU membership, the Agency will intensify the training activities aimed at its staff and aid providers, particularly at the regional and local level, on the application of the newly established state aid data management system.

### **Work with partners**

The Agency will continue to work in partnership with aid providers to establish an efficient state aid notification system, transparent granting system and effective monitoring of state aid. This will especially include work in partnership with the established permanent working group and the Committee for monitoring and preparation of state aid rules within the Ministry of Finance.

### **Negotiation opening benchmarks**

One of the priorities in the work of the Agency in this period will remain the tasks relating to meeting the benchmarks for the opening of the EU accession negotiation in the chapter covering competition policy.

This particularly in respect of the benchmark concerning restructuring of the Croatian shipbuilding industry. The assessment of restructuring plans will be carried out by the Agency, in cooperation with the Commission and its consultants, within the shortest possible deadline.

Similarly, the Agency will provide its assistance in the alignment of the state aid rules regulating the operation of public service broadcasters in the case of the Croatian Radio-Television where the existing rules must be aligned with the state aid in the form of compensation for the provisions of services of general economic interest.

### ***Less and better targeted aid***

Undertakings and aid providers in the Republic of Croatia should be trained and prepared for the situation after the EU accession, once Croatia becomes a part of the single market. After structural adjustments have been carried out, economic objectives which are financed by the taxpayers' money must be carefully selected. The trend has to follow the fundamental EU state aid principle – towards *less and better targeted aid*.

The overall objective is to bring the structure of state aid in Croatia as close as possible to the relevant structure of state aid in EU member states. This would eventually promote international competitiveness of the Croatian economy.

## **Preparations for EU membership**

The accession of the Republic of Croatia to the EU will have significant effects on the scope of work falling under the competence of the Agency, both in the areas of antitrust and merger control and state aid control.

### **ECN – a system of parallel competences**

After the accession of the Republic of Croatia the EU a system of parallel competences will be established in the area of competition: at the national and the EU level.

By the EU accession the member states commit themselves to cooperation with the European Commission in the application of competition rules, cooperation and exchange of information between competent competition authorities of the member states themselves and between them and the Commission. They together form a discussion and cooperation forum known as the European Competition Network (ECN).

The Commission and the competition authorities in the member states, operating within the ECN, are urged to cooperate in a close and complementary manner in ensuring effective application of the EU competition rules within the European Union and strengthening of competition culture. Together, the national competition authorities and the Commission form a network of public authorities that act in the public interest and cooperate closely in order to protect competition.

A number of competition authorities of the member states have established separate departments responsible for cooperation with ECN. Similarly, the Agency will have to prepare its staff for this cooperation within the system of parallel competences. At the same time, right after the opening of the negotiations in Chapter 8: Competition policy, the Agency will formally apply for observer status in ECN, in line with the operation rules of the forum.

### **Shift of competences from the Agency to the Commission**

By the Croatian EU accession, most competences in the area of state aid concurrently falling under the scope of the Croatian Competition Agency will be shifted to the European Commission.

It should be therefore decided by the competent Croatian authorities which authority will be responsible for the performance of state aid activities after the accession. There are two possible solutions:

- the Agency stays responsible for the part of state aid matters that remain under the scope of a member state, or
- these competences, skills and experience are conveyed by the Agency to the relevant ministry.

As long as this directly affects the future organization and planned capacities of the Agency, it will actively participate in this process.