

POSITION PAPER

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PROTECTION OF FAIR MARKET COMPETITION IN CROATIA

Healthy competition brings benefits to consumers, such as low prices, high quality products, a wide selection of goods and services, and innovation. The purpose of competition law is to secure a level playing field whereby competition is safeguarded, ultimately to the benefit of the consumers. Croatia has made considerable progress in the area of competition protection over the past decade.

However, the European Commission has been critical towards the Croatian competition law and its regulatory enforcement in practice. An opening benchmark related to state aid issues (shipyards) is set for negotiation chapter "Competition policy". Reports of the European Commission regarding merger control and antitrust essentially note the following:

- (i) further alignment of Croatian competition law with the EC law is needed,
- (ii) there is a lack of enforcement of the Competition protection law,
- (iii) the administrative capacity of the Competition Agency should be improved,
- (iv) leniency towards cooperative cartel members should be addressed and
- (v) the involvement of the judiciary in enforcing AZTN decisions should be made more efficient.

In collaboration with the Croatian Competition Agency (AZTN), the Ministry of Economy, Labour and Entrepreneurship has prepared a Draft Competition Act cooperate (Draft) and has submitted it to the Croatian Government for further procedure and ultimately ratification by the Parliament (Sabor). According to the explanatory notes to the Draft, the fundamental aim is to resolve deficiencies in the current Croatian Competition Act concerning:

- (i) the lack of AZTN's authority to impose fines for violation of competition laws;
- (ii) failure of the current law to provide for leniency programs for cooperative cartel members; and
- (iii) clarification of judicial enforcement of the AZTN's decisions, whereby a single court would be empowered to review AZTN's decision both on merits as well as with respect to the fines imposed.

AmCham Croatia considers such legislation to be very important to the development of the business environment in Croatia. This legislation will be a key factor in professionally regulating business practices in Croatia in the future and deserves a wide expert discussion/debate, in order to achieve the best possible legislation. Therefore, AmCham Croatia believes that there should be further public discussion and review in order to meet the expectations as suggested in the explanatory notes to the Draft, so as to effectively eliminate the deficiencies as noted by the European Commission. Wishing to proactively contribute to the improvement of competition protection in Croatia, AmCham will engage with the AZTN and other relevant institutions and share its expert comments on the Draft.

