

# Annual Report 2000



**Konkurransetilsynet**  
Norwegian Competition Authority





# **Norwegian Competition Authority Annual Report 2000**



*Measured in terms of total sales, its impact is currently modest.*

*E-commerce may see*

*Strong growth is expected in the near future, however.*

*A central issue is how the development  
will affect the markets involved.*

*still be said to be in its infancy.*

# Introduction

**A public committee has been appointed to review Norwegian competition legislation and to put forward proposals for new rules in this area. Among other things, the committee will consider whether new legislation should be drafted based on the competition rules in the EEA Agreement. The OECD has recommended that its member countries adopt more efficient tools with which to combat unlawful cartels.**



# Foreword

**The objective of the Competition Act is to achieve efficient utilisation of society's resources by providing the necessary conditions for effective competition. Workable competition is thus more a means to an end than an end in itself. The principal objective of the Competition Authority is to enforce the provisions of the Competition Act.**

Effective use of society's resources – or economic efficiency – relates to the use of labour, capital, energy and other natural resources. In a market with workable competition suppliers will compete to win customers and customers will prefer suppliers with lower prices and the best possible products. It is the undertakings with the lowest costs that will be most able to maintain low prices. In the long term, therefore, it will be the most efficient companies that survive in the market if competition is workable

The prices in a well-functioning market convey information concerning the resource situation and signal profitable investments and efficient use of resources in the best interests of both consumers and producers. Preventing the abuse of market power is in the consumers' interest and contributes to economic efficiency.

Illegal cartels are a serious threat to efficient markets. Cartels are a form of collaboration between companies on prices, market sharing, or tenders that favour the collaborating parties to the detriment of other companies and consumers. Illegal cartel collaboration often means, for example, that consumers and companies that adhere to public rules and regulations have to pay higher prices than they should have done. In contrast to the many other legal types of collaboration, cartels have few or no positive effects on efficiency. As cartels are so clearly detrimental, the OECD approved a recommendation that the competition laws of the member countries must contain provisions that effectively prevent the creation of cartels. The recommendation emphasised the need to facilitate the sanctioning of the bans in the Competition Act and to have appropriate methods for revealing and taking legal action against cartels.

The sanctions in the Norwegian Competition Act are essentially stringent. Anyone breaching the terms of the law may be fined or imprisoned, and imprisonment may be up to six years under aggravating circumstances. Alternatively, the Competition Authority may issue a writ prescribing the withholding of earnings. Hitherto, no one has yet been imprisoned, and the Competition Authority has not yet instructed any companies to surrender the profits they have made as a result of illegal collaboration. However, there are cases where companies that have suffered from the cartel activities of other companies have successfully sued for compensation. While a few large fines have been imposed, the general level of fines in Norway is considerably lower than it is, for example, in the EU. There is now a clear international tendency towards imposing tougher sanctions.

The Competition Authority has initiated an external R&D project to ascertain the most appropriate formulation of sanction methods in the Competition Act. The report will be finished by the end of June 2001, and will be given to the committee that has been assembled to revise the Competition Act. The report will describe the introduction of a penalty reduction programme for companies and individuals who volunteer information to the authorities on illegal cartels that they have participated in. Experience in other countries has shown that such programmes are very effective in revealing existing cartels and in deterring companies from entering into new cartels.

As markets are continuing to integrate internationally, it follows that more and more cartels will be of an international character. This confronts the authorities with both national and international competition policy challenges. Collaboration with competition authorities in other countries will become more significant, and it will become more important to exchange information on specific cases. Denmark, Iceland and Norway have entered into an agreement to exchange confidential information on specific cases relating to competition. This agreement came into force on 1 April 2001, and may be extended to encompass other Nordic countries. Similar agreements with other countries may also be entered into.

This annual report discusses first the new committee appointed to revise the law. The committee was appointed by the Government with a view to assessing the requirement for decentralised enforcement of the competition rules of the EEA Agreement and adaptation of the Norwegian Competition Act to the EEA Agreement.

The report then gives the results of our work on the development of indices showing competition intensity. We also provide a few figures from the OECD on the degree of regulations in the member countries. Even if both the competition and the regulations' indices need refining, this kind of analysis is gaining in popularity.

The report subsequently goes on to describe various competition factors in five selected markets and three R&D projects initiated by the Competition Authority. The report also describes some of the most important cases the Competition Authority has been involved in. Some of these are of principal importance and should be interesting for both consumers and the business community alike.

The Competition Authority experienced a hectic year in 2000. Not only were there more cases than usual to deal with, but the organisation also underwent restructuring in the second half-year. It was decided in the autumn to wind down the Authority's eight regional offices. This meant drawing up a detailed plan for the restructuring process that is now in motion. Every effort is being made to help superfluous staff find new employment. The new organisation model, presented at the end of this report, will concentrate more on the primary tasks of the Competition Authority and will make more efficient use of the methods and resources at its disposal.

**Knut Eggum Johansen**

Oslo, May 2001





# The Competition Authority

The competition authorities are the King (in Council), the Norwegian Ministry of Labour and Government Administration and the Competition Authority.

The Competition Act encompasses all forms of commercial activity, regardless of the goods or services provided, and irrespective of whether they involve private enterprise or public sector economic activities.

The Competition Authority shall contribute to efficient utilisation of society's resources by providing the necessary conditions for workable competition and by supervising competition in the various markets.

The Competition Authority's strategic plan emphasises that the Competition Authority shall, as the administrative body for competition issues:

- Strive to achieve workable competition and correct incentives in private enterprise and public sector activities, for the best of the consumers and industry
- Prevent, discover and counteract the harmful restriction of competition
- Ensure that competitive issues are taken into account in the public sector
- Assist in providing sufficient information for market players

The Competition Authority shall be an authority in respect of competition issues and be perceived as professionally competent, effective, problem-solving and service-minded.





# Revision of the Competition Act

**On 24 November 2000, the Government appointed a public committee to examine Norwegian competition legislation and to put forward a proposal for the introduction of new rules in this area. Professor Hans Petter Graver was appointed chairman of the committee.**

The requirement for a thorough examination of Norwegian competition legislation is founded on the experience acquired with the Norwegian Competition Act and European Economic Area's (EEA) competition rules, and the development of the EU's and the EEA's competition policy over the last few years.

## **Decentralised enforcement**

In September 2000, the European Commission put forward a proposal for a new Council Regulation on the implementation of prohibitions on collaboration that restricts competition, and the abuse of market power (EC Articles 81 and 82). A central element of the proposal was that national competition authorities would also have to enforce the prohibitions. The rules that the proposal seeks to change are part of the EEA Agreement and are thus of significance for both the EEA Agreement (Articles 53 and 54) and Norwegian law. The committee has been asked to assess whether there is a need to grant the Norwegian authorities extended power to enforce Articles 53 and 54 of the EEA Agreement. The committee is to present its assessment and proposals in the form of a recommendation by 1 November 2001.

## **New Competition Act**

Another issue the committee has been asked to assess is whether, and, if applicable, to what extent, a new Norwegian Competition Act should be drawn up on the lines of the competition rules laid down in the EEA Agreement, or whether a different legislative model should be used.

If the committee is asked to draft a new bill on the lines of the EEA's competition rules, it will have to assess the requirement for provisions and adaptations suited specifically to Norwegian circumstances and to put forward proposals for such provisions.


The following major problems will arise in connection with the compilation of a new Norwegian Competition Act: The organisation of the competition authorities, including the decision process, the various models for testing and verifying the authorities' resolutions, the allocation of tasks and responsibility amongst the competition authorities and the various sector authorities, and the drawing up of appropriate verification and sanction methods for ensuring the rules are enforced effectively and complied with.

The committee has been asked to put forward proposals for a new Norwegian Act by 1 November 2002.

## **Members of the committee**

The following have been appointed members of the committee:

- Professor Hans Petter Graver (chairman), Arena (the Research Council of Norway's programme for European research)
- Morten Eriksen, Chief public prosecutor, Økokrim
- The National Authority for Investigation and Prosecution of Economic and Environmental Crime in Norway
- Elisabeth Roscher, Legal Director, Competition Authority
- Steinar Undrum, Assistant Director General, Ministry of Labour and Government Administration
- Magne Eek, Office Manager, Consumer Ombudsman
- Eva Hildrum, Director General, Ministry of Transport and Communications
- Margrethe Volden Slinde, Senior Executive Officer, Ministry of Petroleum and Energy
- Jan Bjørland, Director General, Ministry of Finance
- Randi Wilhelmsen, Assistant Director General, Ministry of Trade and Industry
- Arnhild Dordi Gjønnes, advocate, Confederation of Norwegian Business and Industry (NHO)
- Stein Reegård, Departmental Manager, Norwegian Federation of Trade Unions (LO)
- Siri Teigum, advocate, Thommessen Krefling Greve Lund AS
- Helge Stemshaug, advocate, Bugge, Arentz-Hansen & Rasmussen



*The Competition Authority has in several contexts analysed the effects of the many regulations in place in the agricultural sector. On the following pages is a brief description of the competitive situation in the dairy sector, several important regulations and some of the Competition Authority's viewpoints on these.*



# Competition

**On the following pages focus is first given to competition and regulation indicators, after which follows a presentation of five markets which may all be described as nascent competitive markets: E-commerce, postal services, railway services, taxi services and the dairy sector. In addition, three R&D projects are discussed.**



# Competition and regulation indicators

## Competition indicators

Many people interested in the issues raised by competition have expressed a desire to see simple indicators showing the intensity of competition in various markets. It is difficult, however, to gauge general levels and to make general assessments of the intensity of competition. It is also difficult to find indicators that are relatively easy to gauge and interpret, and which can be used to form the basis of political decisions in specific markets.

One indicator that is often used, however, is market concentration. Market concentration is a measure of the number of providers in the market and their relative size. High market concentration may mean that competition is weak. This is, however, only an indication. Competitive prices can exist even with only two providers in the market. High concentration in a market may be due to companies exploiting economies of scale, i.e. when it is cheaper per unit to manufacture many units than it is to manufacture few. In such markets, efficient manufacturing will require a considerable scale of activities.

Market concentration should also be assessed in relation to the turbulence in the market. In markets undergoing substantial changes, companies have to think constantly about efficiency and how to adapt. In markets not undergoing such changes, there is far less of an incentive to maximise efficiency. Mobility indices are a measure of the turbulence in a market. *Ceteris paribus*, the higher the mobility index of a market, the greater is the probability of there being strong competition in that market.

The Nordic competition authorities are collaborating on a project to assess the possibilities of compiling comparable competition indicators for business groups in each of the Nordic countries. The project group has agreed on the types of data to be collated and on the degree of concentration and mobility it should try to calculate.

The summary concentration rate (CR4) shows how big the aggregate market share of the four largest companies in a sector is. A high figure indicates few, but large, companies in the trade. A low figure indicates many small companies. If the number of companies in two markets is the same, competition in one market will be tougher if the companies are of the same size than it would be in a market where only a few companies dominate.

Another scale for assessing market concentration is the Herfindahl-Hirschman-index (HHI). This is defined as the sum of the square of the market shares for all the companies in a

market. The HHI will have a value between 0 and 10,000. In a monopoly market (i.e. just one company), the company has a market share of 100 per cent, and the HHI will have a value of 10,000. A value near zero indicates that the respective market is made up of many small companies. The index attributes greater significance to large market shares than to small market shares. If all other factors are equal, therefore, concentration is greater in a market with unequally distributed market shares than in a market where the companies are of the same size.

The mobility indices are used to describe how the composition of the companies in a given trade changes over time. The Nordic work group has chosen to quote the mobility of a trade by calculating the figures for changes in market share in the course of a year. For each company, the change in market share is measured from one year to another. The positive value of the differences are then totalled for all companies in the market and divided by two. The mobility index will have a value between 0 and 100. The value 0 indicates a completely static market with no movement in the number of companies or their market shares from year to year. The mobility index will have the value 100 if none of the companies from the previous year operate in the market the following year.

A substantial amount of information has been obtained from Statistics Norway's VAT register. This register provides information on the turnover of all companies bound to pay value-added tax. The material encompasses turnover that is subject to VAT in approximately 400 businesses. A lot of work still remains to be done on the figures, including making adjustments for imports, and the figures from the other Nordic countries have not been fully compiled. There is therefore still a fair amount to do before comparisons can be made between the various Nordic countries.

## Regulation indicators

A modern society requires regulations in many areas. Such regulations lay down requirements affecting individuals and companies, as well as the authorities stipulating them. Financial regulations affect directly how markets function, for example in relation to pricing, competition factors, access to markets, and establishing and winding up companies. Regulations may be necessary for the market economy to work properly. They may, for example, give customers greater confidence that the prod-

ucts they buy are not harmful. But public regulations can also reduce competition. It is important to assess critically whether the regulations are necessary and effective in respect of the aims they are meant to achieve.

In 1998, the OECD started a major programme to reform regulations. The purpose of the programme is to help the member countries improve the quality of their regulations – that is, to reform the regulations that constitute an unnecessary impediment to competition, innovation and growth, and to promote social aims in an efficient way.

In 2000, the OECD carried out a survey based on data from 1998 to compare various member countries in respect of the scale of regulations constituting obstacles to competition in the product markets. Information was collated on more than 1,500 provisions in general and sector-specific legislation, regulations and administrative procedures. The OECD did not try in the survey to assess how effective the regulatory provisions were in relation to the aims they were intended to achieve.

The OECD's report concludes that the countries are uniformly in the lower half of the scale, and that there are surprisingly few differences between the countries. Compared with those countries subject to little regulation, the results show that Norway is subject to a rather higher degree of regulation. Only Greece and Italy have a higher degree of regulation in the product markets.

The regulations examined are divided into two main groups, national and international, according to whether they are directed towards domestic companies or foreign companies. The national regulations are categorised under provisions relat-

The figures show that the number of companies is lower for wholesalers dealing in fuel and propellants (348) than it is for wholesalers dealing in household goods and goods for personal consumption (1938). Since turnover is approximately the same for the two sectors, one must assume there is greater market concentration in the first sector. This is also confirmed by the figures for the four largest companies' market shares and by the Herfindahl-Hirschman Index. For

ing to state control, and obstacles to business activities. In comparison with other countries, Norway suffers from a high degree of state control. This control relates to a number of factors including the degree of public ownership of companies and state involvement in the business sector. On the other hand, Norway recorded a low score for the category "obstacles to business activities", that covers public restrictions on the number of business owners, exemptions from competition regulations and administrative obligations.

The international regulations relate to customs, the harmonisation of standards, the restrictions on foreign ownership of companies, etc. In this area, Norway was subject to greater regulation than the other countries in the analysis. This means that, relatively speaking, it is difficult for foreign companies to enter Norwegian markets. The reason for this is primarily the considerable customs duty payable on the import of agricultural products. Customs and excise rates on other products are comparable with the rates in the EU and the USA.

Even if the results have to be interpreted with caution, the computer statistics used by the OECD are comprehensive and can be used to give a rough estimate of the degree of regulation in, and the differences between, various countries. The OECD currently has no plans to update the survey. Much of the statistical data from the survey has been published and is available on the OECD's web site at <http://www.oecd.org/eco>. The OECD hopes that, in this way, the survey can be used in research to develop better methods for analysing regulations in the product markets.

comparison purposes, we can point out that merger guidelines in the USA consider markets with an Herfindahl-Hirschman Index value over 1800 to be strongly concentrated, and those with a value below 1000 to be weakly concentrated. The mobility index value is 14 in both sectors, so this gives no basis for changing the assessments of the relative competition situation in the two sectors. In the data the average, weighted mobility index value is approximately 13.

Industrial classification	Number of registered companies	Turnover in NOK billion	Market share of the four biggest companies	Herfindahl-Hirschman-index	Mobility-index
Wholesale trade – fuel and propellants	348	17.1	76	1950	14
Wholesale trade – household goods and goods for personal consumption	1,938	19.7	17	130	14

(Source: VAT Register, Statistics Norway)



# Markets

**With the development of technology come new products and markets. Changes in supply and demand may also lead to increased competition in sectors that were previously not subject to any particular competition. Below is a presentation of five markets that share the characteristic of being subject to new and growing competition.**

## E-commerce

*E-commerce must still be considered as being in its infancy. The scale of e-commerce in relation to total turnover is still modest. The sector is expected to grow rapidly over the next few years, however. It is interesting to consider how the development of E-commerce affects its respective markets.*

E-commerce, or trading via the Internet, involves placing orders over the Internet, trading via net-based markets, and using search tools to find products and to compare prices. Users can also obtain a number of different services over the Internet (for example banking services, insurance, securities trading, and advisory services).

A survey carried out by Statistics Norway showed that eight per cent of companies in Norway (with at least ten employees and access to the Internet) had recorded sales from orders placed via the Internet in 2000. Such sales were, however, low in relation to total turnover. For half the companies who had sold products or services over the Internet, such sales accounted for only 1–2 per cent of total turnover. Only six per cent of the companies stated that e-commerce accounted for 30 per cent or more of total turnover in 2000. Of the customers who used the Internet for ordering goods or services, “other companies” accounted for 34 per cent, “private consumers” 29 per cent, “public institutions” 20 per cent, and “other organisations” 14 per cent.

It is important for the competition authorities to assess how the development of e-commerce affects competition in the respective markets. It is also important to ascertain whether the traditional instruments for enforcement and verification are sufficient.

## E-commerce and how the markets work

In some cases, E-commerce represents a new sales method. In other cases, it represents new products (electronic information), services (search tools for comparing prices) and markets (auctions and online bartering).

E-commerce will normally increase competition in the markets for traditional products. This is because there may be a smaller requirement for physical infrastructure for selling goods and services, lower costs for finding and selecting products, and lower transaction costs. For these reasons, the obstacles for setting up a company are smaller, and thus the possibility of acquiring and exploiting market dominance is smaller. E-commerce may also increase competition by expanding markets geographically.

Other aspects of E-commerce may reduce competition. First of all, the irreversible cost of entering the market may be substantial if there are already other providers in the market that have won the loyalty of customers. Secondly, markets on the Internet may be subject to network effects. That is, the users benefit more from a market the more people use it. Providers and customers might then be attracted towards the bigger marketplaces, thus promoting the growth of a few large providers. Thirdly, E-commerce is ideal for selling knowledge-based products that can be costly to develop, but that cost very little to produce. Information services represent a good example of such economies of scale. With the presence of economies of scale and network effects, efficiency of production may sometimes be optimised if there is only one, or if there are only few, companies involved in the production stage. This must, however, be assessed in the light of the possible negative effects resulting from the presence of such few companies exploiting their dominant position and trying to reduce competition. E-commerce also increases the danger of price fixing in jointly-owned marketplaces.

The use of the Internet is usually based on the following infrastructure: apparatus (PC, mobile telephone), telephone network (broadband network, where applicable), access to the Internet (set up by so-called “ISPs” (Internet Service Providers)), and content-providers (gateways, marketplaces, etc.). These links in the chain can, in fact, be provided by separate companies. It is not uncommon, however, that one company is involved in providing more than one of them. Some form of inspection might

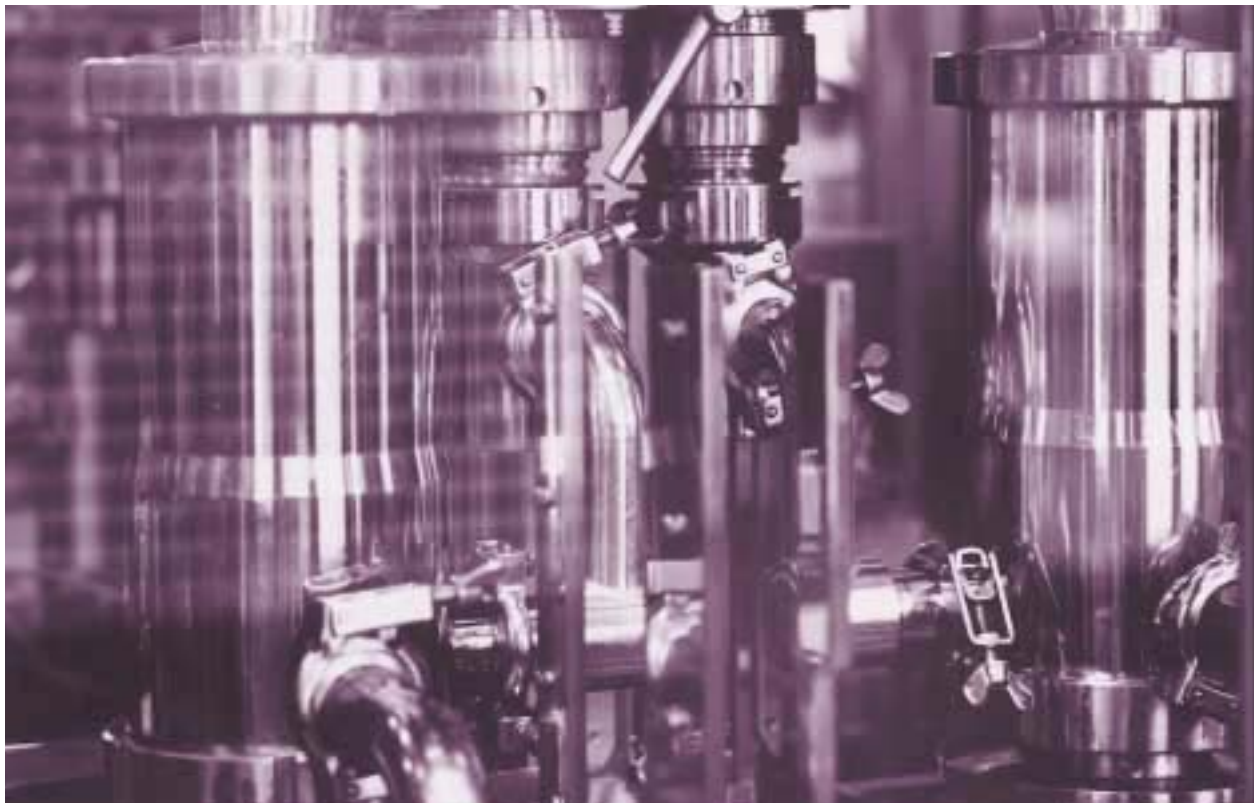
be necessary to ensure that this infrastructure is not used to prevent competitors from entering the market.

### Postal services

*As a public corporation (a state-owned company prior to 1996), Norway Post has always been the largest and most important company in the market for postal services. For many years the company has had a monopoly on the delivery of letters in certain weight and price classes. Partly due to developments in the EU, this monopoly has been somewhat reduced. We expect this trend to continue in the coming years. This means that an increasing share of the market for postal services will be subject to competition from the private sector. Alternative products such as facsimile and e-mail are also challenging the monopoly of Norway Post.*

### Organisation

The EU's Directive on Postal Services of 1997 lays down common rules for the development of postal services within the EU. The directive stipulates that member states must provide at least a minimum range of postal delivery services according to specific quality criteria and at prices consumers find reasonable. In as far as it is necessary to maintain such basic services, member states may allow the establishment of monopolies in certain areas and within certain weight and price limits. Norway Post has, for example, a monopoly on the delivery of sealed, addressed letters of up to 350g and up to five times the basic cost of sending a "Priority"-class letter. A number of countries, including Spain, Germany and the United Kingdom, have reduced the scale of this monopoly more than necessary according to the terms of the directive, while Sweden and Fin-





land have abandoned all monopolies. The former nationalised postal services still have a dominant position in the markets, however, especially in the traditional areas of basic services.

In Norway, as in many other countries, it has been considered important to ensure that postal services covered by Norway Post's monopoly cost the same wherever in the country the items are being sent. Since the cost of such services varies according to the distance between the sender and the addressee, and according to local distribution factors, such a policy requires a certain "cross-subsidising".

The profit from monopoly services and state purchase of postal services help cover the added costs incurred by Norway Post for meeting the requirement to carry out its social obligations relating to the delivery of mail. Requirements have also been laid down governing services and quality. The state granted NOK 540 million in 2001 for the purchase of unprofitable postal services. This is expected to amount to approximately 4 per cent of Norway Post's total revenues for 2001.

### Competition problems

We must expect other companies to enter the market for traditionally monopolised services in the most profitable market segments first, i.e. in towns and towards the corporate sector. "Skimming off the cream" in this fashion might leave Norway Post with just the unprofitable parts of the market. In a less regulated market, this might lead to more differentiated, cost-based prices. One possible alternative to monopolies and cross-subsidising is that unprofitable services are granted special funding.

A study of the postal services sector that was recently carried out under the direction of the OECD has shown that the reduction of the area of monopoly exercised by a well-established postal services company is not always sufficient to safeguard workable competition. The problems that the OECD drew attention to in particular are: cross-subsidising from the monopoly area to areas of services subject to competition, the use of various forms of loyalty schemes and customer discounts, and the discrimination of competitors in accessing Norway Post's monopoly services and basic services.

Any cross-subsidising from the monopoly area to the areas subject to competition will infringe the terms of the EU's Postal

Services Directive and Norwegian legislation. The problem is that as long as the established company is allowed to operate inside and outside the monopoly, it is possible to exaggerate the costs accounted for in the monopoly area. This, in turn, will allow the company to gain acceptance for higher maximum postage rates in the monopoly area, or for bigger subsidies from public funds to cover the accounting deficit. The corresponding increase in income can then be taken out as profit in the area subject to competition, or used to subsidise services that are subject to competition. Norway Post is bound to show, by means of product accounting submitted to the Norwegian Post and Telecommunications Authority, that no illegal cross-subsidising is taking place.

As long as there is still a monopoly area of any significant size, the established postal services company will often be able to offer a wider range of products than its competitors. Furthermore, as many business customers need to make use of a variety of services and consider it impractical and costly to use different suppliers, the availability of one supplier providing many services is, in itself, a competitive advantage for the established postal services company. It is, therefore, important that the company is not allowed to strengthen this advantage by demanding to be the sole supplier of these services. The right to offer discount schemes for loyal customers should also be limited in some cases.

Transport and distribution normally constitute a smaller monopoly in the postal services sector than, for example, the physical networks for supplying electricity and telecommunications signals. Yet, as for other networks in respect of certain services and geographical areas, it would not be profitable, either for private enterprises or for the society as a whole, to establish parallel distribution networks. This is particularly the case in relation to frequent and regular distribution of mail in sparsely populated areas. If we are to safeguard the efficiency of markets, we must ensure that the established postal services company does not prioritise its own services subject to competition over the granting to competitors of access to the distribution network.

The Norwegian Post and Telecommunications Authority and the Competition Authority have both received complaints from private operators of postal services stating that they have been



affected by cross-subsidising or discrimination of various kinds. The two authorities have a general collaboration agreement which allows them to work together to resolve such issues.

### Railway services

*In the 2001 National Budget, the Government has indicated its intention to promote greater competition in railway services. Initially, the government will try to open the rail network for the transport of goods. The Institute of Transport Economics recently contributed to the debate through its report to the Ministry of Transport and Communications (“Competition in the Norwegian railway network”). The report discusses current*

*organisation and recommends deregulation of railway operations.*

### Organisation

An EU directive from 1991 stipulates the requirement for competition in international, combined goods transport, i.e. goods transport using various means of conveyance. The directive states that, to simplify transport between member countries, every railway company must have the possibility of forming collaboration agreements with companies in other countries. Governments must allow such international collaboration agreements and must give them approval for carrying out their services. EU member countries have introduced reforms to





comply with this directive. Norway has also granted other companies access to use the railway network on stretches of line that NSB (Norwegian State Railways) finds unprofitable to operate. Sweden, Finland, the UK, and the Netherlands have progressed furthest with their reforms. The process has evolved further in the markets for goods transport than in the markets for passenger transport.

As in most countries, infrastructure and rolling stock are owned by the state. Timetables and prices have been regulated by the state to some extent. Competition from road, air and sea transport has led to a substantial drop over the long-term in the railway's volume of goods handled. State subsidies to Norwegian railways have increased.

Railways run at a loss in most of Europe and are losing market shares to other forms of transport. It is thus not the lack of market power that has motivated governments to increase competition in the railway networks, but rather a desire to increase efficiency.

### Competition problems

In principle, competition in railway services can take two forms. There can be competition in the market, or there can be competition for the market. Even if passenger trains and goods trains both use, in general, the same railway lines, capacity for the two types of transport often differs considerably. Much of the passenger traffic runs at specific times of the day, and it is at these times that capacity problems arise. Time factors for goods transport are less critical. In many cases, it is possible to make use of extra capacity at night, for example. For this and various other reasons, it would be easier to introduce competition in the market for goods transport.

Competition for passenger transport could be introduced by means of the operators bidding for particular routes by auction. Auctions or tenders could be used both for services where there is a sound basis for private, profitable operations, and for services requiring state subsidies. Such methods would not preclude the option to lay down conditions relating to the quality of services, and ticket prices, etc. What is more, such forms of competition would also promote economies of scale and collaboration between transport companies.

Deregulation and the establishment of new institutions for the distribution of capacity are not, by themselves, a guarantee of

workable competition in the railways sector. There seem to be obstacles to the establishment of competitors particularly in respect of passenger transport. The lack of a good market for second-hand rolling stock is one of the problems that companies often highlight. Another problem is that the acquisition of relevant information and knowledge can incur substantial costs that cannot be offset in any way.

Concentration factors can create problems in respect of competition both in and for the market. Other, more specific, problems might also arise in connection with the use of tenders or auctions. For example, operators believing it is possible to renegotiate a contract retrospectively might be tempted to submit an unrealistically low tender. There is also a significant danger that bidders might be tempted to supply goods and services of poorer quality than that required. Based on the experience acquired by countries which have come a long way in deregulating the railways, it seems that the co-ordination of routes, the sale of tickets and the provision of information all suffer when the services of national operators are distributed amongst several independent operators. The sale of routes by auction is a relatively new activity and many parties thus recommend gradual deregulation based on single, isolated parts of the network.

### Taxi services

*Taxi services have been regulated since the 1940s and, in Norway, were organised under two authorities. The transport authorities have regulated new companies in the market, while the pricing authorities have regulated prices. There has now been a change in practice, however, concerning the allocation of licences, and some places now have more than one central taxi service. The Competition Authority has thus been able to cease regulating the prices in certain urban areas.*

### Licences

Licences to operate taxi dispatching centres and taxis are granted by the transport authorities of the Ministry of Transport, regional municipalities and municipalities. The licences define the geographical areas to be covered and dictate that the taxis operate there.

In some regions, the transport authorities have begun to introduce a new practice in granting licences. The licensing districts

have become larger as more municipalities, or even whole regions, have been made into just one licensing district. Furthermore, permits have been granted to establish more than one taxi service in one licensing district. This new practice has led to competition between taxi services.

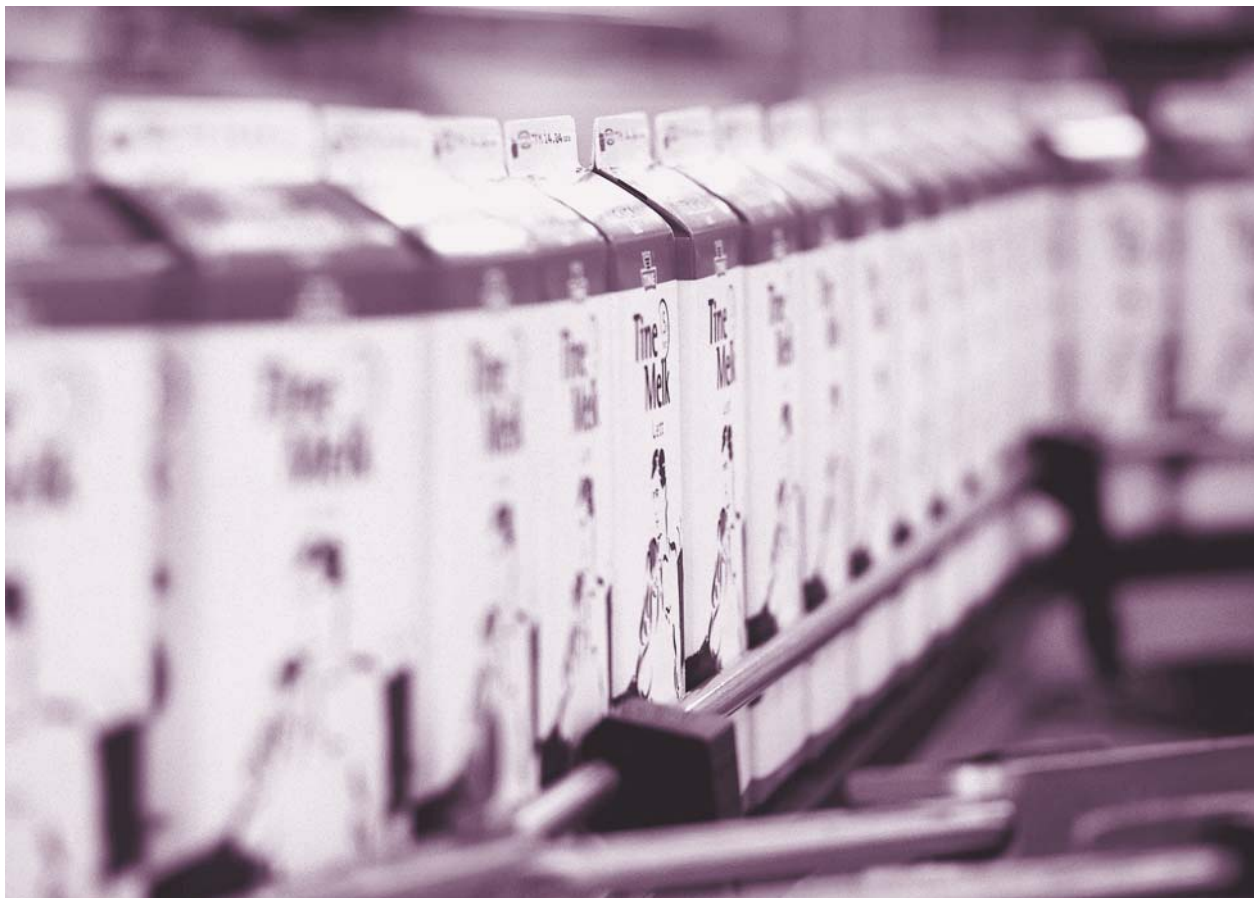
### Prices

The Price Directorate (and, since 1994, the Competition Authority) was responsible for regulating prices in the taxi market by means of the “Regulations governing Maximum Prices for Taxi Services”. The price regulations did not apply to large customers, such as hospitals and schools; services for these

parties were carried out according to a contract with municipalities and regional municipalities.

In 1998, the Competition Authority proposed abandoning the regulation of prices for taxi services. This was because price regulations were often unclear and led to inflexible pricing. The Ministry of Labour and Government Administration resolved that the regulation governing maximum prices could be abandoned in areas where at least two taxi services operated, and where conditions permitted adequate competition between the services.

The Competition Authority thus no longer regulates the prices for taxi services in urban areas, i.e. in Oslo, Akershus, Bergen,





Trondheim, Stavanger, Kristiansand, Drammen and adjacent municipalities. The Authority intends to evaluate the level of competition in the deregulated markets in the first half of 2001.

As a result of the change, the Authority saw the need for a traditional evaluation of the competitive aspects of the collaboration among taxis in one taxi service. A total of 25 taxi services in these urban areas needed exemption from the terms of the Competition Act relating to the prohibition of collaborating on prices and tendering. The assessment of the exemption request emphasised that the organisation of the taxi market through centralised taxi services promoted socio-economic efficiency through effective communication of orders and traffic routing. The Authority granted the respective taxi service consent to determine a common maximum price, but stated that such consent should not prevent individual taxi drivers from offering lower prices.

### Price information

It is now difficult to know how much a taxi ride will cost before it has been completed. It is not in the interest of consumers or taxi drivers to estimate a price based on a range of complicated factors relating to travel time and distance. If the Competition Authority pursues its policy of deregulation after the evaluation of the competition factors in the deregulated areas, it anticipates that the centralised taxi services will adopt a simpler pricing structure.

Information on prices would be particularly important in this phase, as consumers would not be used to competition between the various taxi dispatchers. As with all other service providers, taxi drivers would have to inform consumers about their prices, or how prices were calculated, in a clear and simple way. The Authority carried out a number of random tests on price information in the autumn. These revealed that, except in Oslo, taxi-owners generally provided adequate information on prices. The Authority will be looking more closely into the situation in Oslo in 2001.

### Market effects

It is not surprising that rates in urban areas increased immediately after the reorganisation. This is normal following a prolonged period of price regulation. Prices also increased

correspondingly in Sweden when taxi prices were deregulated there, though the increase in the Swedish market has now tailed off.

Prices in the deregulated areas seem to have become increasingly disparate at different times of day and on different days of the week. In the big towns, where the demand for taxis is high at weekends and in the evening, prices have increased at these times. There is reason to believe that this will lead to an increase in quality and that more taxis will be available in the long-term, so that the waiting time for taxis will decrease. In this way, the market will work better because supply and demand will find a natural balance. In smaller towns, prices have not increased so much at weekends and in the evenings, and this might be due to lower demand.

We expect that taxi dispatchers will be able to introduce new services in future, or taxi services combined with other services, or even services in new market areas. The Government also recently granted transport companies using minibuses a licence to carry out assignments that were previously reserved for taxi-drivers. We expect this to increase competition – particularly in the market for major customers.

The Competition Authority is of the opinion that the market for taxi services will benefit if the regulations concerning licences are relaxed, for example, by replacing the current means-testing of licences with a qualification- and safety-based system. Such a system would relieve the pressure on higher prices and would reduce waiting times.

## The dairy sector

*Several times the Competition Authority has analysed the effects of the many regulations governing the farming industry. Below is a short description of the competitive situation, some of the important regulations in the dairy sector and some of the Authority's opinions on these.*

### The competition situation

TINE Norske Meierier (TINE) is, by far, the largest company operating in all branches of the dairy market. TINE, which is a co-operative, is owned by approximately 25,000 milk producers, i.e. nearly all the dairy farmers in Norway. TINE thus has virtually full control over the essential component of the dairy market: milk.

In the last few years, two small competitors have started up: the cheese manufacturer, Synnøve Finden, and the producer of milk and yoghurt, Q-meieriene. Synnøve Finden does not have direct deliveries from dairy farmers, but makes cheese using milk it purchases from TINE. Q-meieriene works with its own network of dairy farmers, but is also obliged to buy milk from TINE.

TINE is bound to supply milk to its competitors. However, the price of such supplies has been the subject of considerable dispute. This shows that granting competitors access when one of them has a monopoly on the essential component of production is a highly demanding task for the regulation authorities.

### **Regulations**

The most important framework conditions governing the dairy sector are agreed through farming negotiations. One of the subjects negotiated is price. Production quotas have also been laid down in the dairy sector. The price equalisation policy for milk is of major significance for the smooth working of competition in the dairy sector.

### **Price regulation**

Prices are determined in the annual agricultural settlement and are called “target prices”. There is no guarantee that these target prices will be those the consumers pay, however. In order to ensure that target prices can be compiled, the State has allocated TINE the role of “market regulator”. This role gives TINE a number of tools for maintaining high prices and includes buffer stocks and controlled export. Regulating the market by using one of the competing companies is a type of legal, regulated exploitation of market power and is possible only if the market regulator has a major share of the market. The role of market regulator also gives TINE, however, a number of obligations that actually promote competition, such as the duty to supply milk to competitors. TINE is also bound to accept any surplus milk that competitors cannot use.

This market regulation leads to higher prices than those that would have been set in a market without regulation. It is, however, a policy of the government to maintain high prices on milk as a raw material in order to protect farmers’ incomes.

It is somewhat alarming, however, that market regulation is controlled by one of the competing companies in this market.

The role of market regulator might lead to TINE obtaining better information about market factors than its competitors obtain. This can lead to unfair competition. The market regulator also has considerably more influence on the decisions of politicians and public administration than its competitors have. The Competition Authority thus recommends that the task of regulating the market be transferred to a neutral administration body. The Competition Authority has also expressed its opinion on corresponding matters in the grain sector in connection with the design of the new market policy for grain that comes into force on 1 July 2001.

### **Quotas**

It is expected that each individual farmer will want to increase his sales of milk if the price of milk increases. The dairy cooperative, however, wants production to be held at a relatively low level so that market prices are kept high. This problem was taken up in detail in the Competition Authority’s contribution to the committee appointed to draft legislation relating to the Co-operative Associations.

It is thus necessary to limit total production to achieve the target prices. Each producer is allocated a quota and is not paid for any milk he produces above that quota. When the quota system was introduced, the quotas were distributed between the farmers based on their historical production. In later years, however, the quotas have been allocated by negotiation.

Negotiability allows farmers to give notification as to whether they want to buy or sell quotas. However, it is the authorities who set the price, determine who is entitled to buy and how much each party can buy. Only existing dairy farms are allowed to buy quotas. The system thus bars the participation of new dairy farmers. It also makes it impossible to identify the highest bidders, so it is not necessarily the most efficient farmers who end up with the quotas.

The quotas can only be traded within the respective county. If the quotas were negotiable throughout the country, most of the quotas could end up in the key areas of south-east Norway and Jæren, where the largest and most profitable farms are located. By ensuring that quotas are traded only in their respective counties, the policy safeguards regional aims – even though it also prevents the introduction of more efficient production.



Hitherto, the results of this negotiability have been primarily the purchase by the authorities of quotas to reduce milk production. The dairy farmers who wish to increase their production have thus had little chance to do this, which, in turn, means that they have not been able to exploit economies of scale.

The Competition Authority recommends that the quotas be tradable without restriction.

### **Price equalisation scheme**

The purpose of the price equalisation scheme for milk is to ensure that all farmers get paid the same amount for milk, regardless of the dairy they deliver their milk to and what the dairy does with the milk. The various milk-based finished goods all generate different levels of profit. By taxing the most profitable products and subsidising the less profitable ones, the government aims to ensure that farmers get an even price. To determine the amount of tax to be levied, or the sub-

sidy to be given, the government calculates the raw material value of the milk used in the product. The raw material value is calculated on the basis of TINE's income and costs for the respective production. When competitors buy milk from TINE to use in their own products, it is this raw material value that they have to pay.

This scheme, which is based on details of TINE's costs and income, gives the company the opportunity to adapt its strategy to the scheme. One such strategy could, for example, be that the company says a certain product costs less than it does in reality in cases where it is subject to competition. This would yield a higher raw material value and the competitors would have to pay a higher transfer price. The Competition Authority has no record of such incidents actually occurring, but considers it worrying that the scheme even allows for such possibilities.



# Research and development

**On several occasions the Competition Authority has engaged research bodies to study particular problems. In 2000, three R&D projects were concluded.**

## Cross-subsidising

*The Competition Authority has received many complaints from the business community about unfair competition practised by public companies. The complainants often claim that a certain public company was practising cross-subsidising by subsidising a part of its business subject to competition using income from a part of the business that was regulated.*

Cross-subsidising is not a well defined concept. In trade journals there are many definitions and equally as many disparities as to how the concept can be applied in the analysis of competition. The Competition Authority has initiated an external R&D project whose aim is to establish a practical definition of the concept. The Authority also considers it important to assess measures to prevent socio-economically undesirable cross-subsidising.

The Foundation for Social and Business Research (SNF) completed in May 2000 its SNF report 19/00 entitled “Cross-subsidising – practical definition and socio-economically desirable measures”. The report was commissioned by the Competition Authority, the Ministry of Labour and Government Administration, and the Business Legislative Committee.

## Analysis and conclusions

It is appropriate to begin with an analysis of the cross-subsidising that takes place between products, or between geographical markets. Companies have to have a source of funding in order to cross-subsidise products or services. This may be a product that generates income which is greater than the production cost. This may be the case, for example, in a market where a company has a dominant position, or for that part of the company's activities that are subsidised. With this source of funds, a company can subsidise the price of another product, so that income can be kept lower than production costs. More concisely, SNF defines cross-subsidising as occurring when the price of the “funding” product is greater than its autonomous costs, and the

price of the “subsidised” product is less than the added costs.

Private and public companies may wish to cross-subsidise products in order to increase profit through so-called predation. This strategy is based on keeping prices low over a given period in order to force competitors out of the market and then demand a monopoly price. Public companies may, however, have additional reasons for cross-subsidising. Some types of cross-subsidising in public companies may be established as part of a regulation, for example, to finance publicly required services that are commercially unprofitable. Alternatively, cross-subsidising may take place to reduce the pressure on the activities in a company that are subject to competition, or to expand in a competitive market.

SNF presents a method for revealing cross-subsidising. The first step is to establish whether cross-subsidising is actually feasible. The next step is to determine whether there is an incentive for maintaining low prices. It then has to be established whether low prices in the relevant market are likely to restrict competition. If the assessors determine that cross-subsidising is feasible, that the incentives are present and that low prices may restrict competition, they must then try to find out if cross-subsidising is actually taking place. The first step is then to ask the affected party to submit evidence that the price for the given item is being subsidised. The defending company is then given the opportunity to reject that the given price is harmful to competition.

The SNF lists the following measures that can be implemented against public companies practising cross-subsidising that is harmful to competition:

- prohibit participation in activities subject to competition;
- order a juridical division between activities subject to competition and those which are regulated;
- order an accounting division between activities subject to competition and those which are regulated;
- impose price controls for regulated services.

If two products are manufactured by the same company, it usually means that the company can benefit from co-ordinated operation. By prohibiting public companies from participating in activities subject to competition, or by ordering companies to differentiate regulated activities and activities subject to com-



petition, companies would not benefit to the full extent from these advantages. Of the proposed measures, those of making an accounting distinction and imposing price controls for regulated services represent the best compromises between the protection of competition and the realising of co-ordinated operating benefits. The most effective tools for preventing cross-subsidising are, however, the prohibition of public companies from participating in activities subject to competition and ordering the respective company to make a juridical division between activities, as outlined above. In certain cases, the competition authorities have to assess restrictions on competition against the loss of benefits of co-ordinated operations and other socio-economic benefits.

### The advertising and broadcasting markets

Between 1998 and 2000, the competition authorities funded a series of projects on the advertising and broadcasting markets. Following a tendering procedure, the Competition Authority allocated the projects to the Centre for Media Economics (SfM) at the Norwegian School of Management (BI), and the Foundation for Social and Business Research (SNF). All in all, nine reports were compiled.

#### Reports

##### SNF

• **Geir Pettersen**

(R 68 1999) *Programmes available on television – the fight for viewers.*

• **Lars Sjørgard and Tore Nilsen**

(R 3 2000) *The Television Industry: The Interplay Between Products, Advertising and Programme Quality*

• **Kjell Grønhaug, Leif E. Hem and Herbjørn Nysveen**

(R 9 2000) *The advertising market: Views on competition, and market segments*

##### SfM

• **Thorolf Helgesen**

*Types of competition in the media and advertising market*

• **Thorolf Helgesen**

*The advertising market and the media market in Norway – market segments and types of competition*

• **Rolf Høyer**

*Approaches to Competition in the Norwegian media industry*

• **Rolf Høyer**

*Competition in the market for broadcasts transmitted via satellite in Norway*

• **Stephan Granhaug**

*The market for the supply of television transmissions in Norway*

• **Stephan Granhaug**

*Corporate integration in the media and telecommunications sector*

### Selection of Television programmes

One of SNF's reports dealt with the competition between the various television channels and how such competition affected the selection of programmes transmitted. The broadcasting market is structured vertically and is made up of market segments that overlap and affect each other. Competition for viewers dictates programming strategy, i.e. the kind of programmes transmitted, how they are presented and when they are transmitted. The result of competition is reflected in the viewer ratings for each channel, and this, in turn, influences the income from advertising sales and sponsor posters.

The survey first analyses selected theories relating to program selection. The earliest theories indicated that a television monopoly would yield the most variegated range of programmes, and greater consumer profit and general economic profit than that which would be the case if there were competition between the channels. It was considered that competing channels would all want a share of the biggest viewer groups and thus transmit the same kinds of programmes at the same time. This would waste resources, however. To avoid this, it was recommended that a television monopoly be set up to control the programmes transmitted on all channels.

Subsequent theories showed, however, that such conclusions were only valid in certain circumstances, for example, if the distribution capacity was limited and the viewer groups were of differing size. Without the presence of such conditions, a monopoly would not necessarily be the most cost efficient solution. Given the right conditions, free competition between the channels would be preferable to an oligopoly or monopoly.

The assessment of theories provides a good basis for analysing the competition between Norwegian television channels – especially in respect of news and sports programmes. The competition for viewers has led to Norwegian television channels tending to transmit the same kind of programmes at



the same time of day as competing channels, and sometimes a little earlier. This is a problem to the extent that viewers prefer greater variety. The report shows, however, that the problems can be solved by promoting more competition between the channels and by generating other kinds of competition. This may affect Norwegian media policy.

Traditionally, the policy in Norway has been to promote a broad range of programmes by shielding certain channels from competition. The SNF believes such a policy could be counter-productive. The report shows that competition between many channels, even if funded in different ways, can provide an overall range of programmes that is more varied than that which is possible with just a few major channels that are bound by transmission guidelines that are difficult to control.

### Modelling the market

*In 1999, the Competition Authority initiated an R&D project on modelling the market. Following the evaluation of tenders, the Foundation for Social and Business Research (SNF) was engaged to carry out the project. The first stage was completed in March 2000.*

An important element of the Competition Authority's work is to observe the markets and intervene where necessary to prevent company acquisitions and agreements between businesses that restrict competition. Competition authorities in all countries perform qualitative analyses to throw light on such problems. The contents of such analyses may vary, but they usually share a number of common traits. These may be: the delimitation of relevant markets, the identification of companies in the markets, market concentration, establishment opportunities, and other factors affecting competition between the companies in the market. The aim of the analyses is to ascertain whether a particular market activity restricts competition, allowing the respective companies to dominate the market – especially by way of demanding higher prices for goods and services than the consumption of resources would dictate.

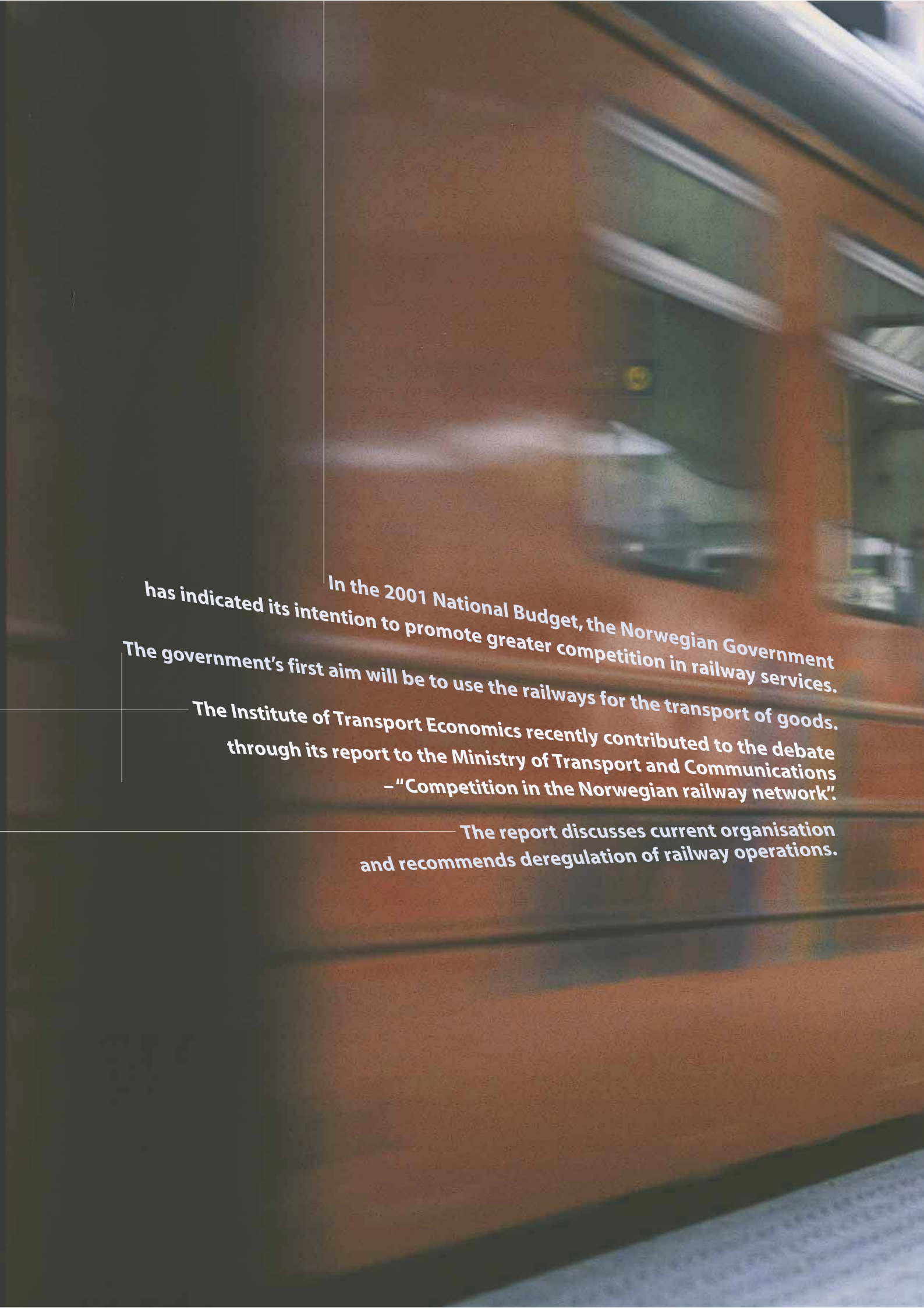
Competition is affected by a number of factors. Companies are different, and competition is not always as tough between all of them. Size, location, product range and quality all affect how the market works. In some markets, price is the most important competition factor. In other markets, companies

compete on other factors, for example, quality, marketing and capacity.

Different factors affecting market adaptation can have different outcomes. For this reason, the competition authorities in many countries have started using numeric modelling of the markets. This method generates a figure for the total effect of changes in market conditions. It guarantees consistency in the use of information and between conditions and results.

SNF Report 11/00 (“Numeric modelling of markets with differentiated products”) describes methods for finding equalities and different models for strategic interaction between companies. SNF's memo 14/00 “Mergers and competition: The calculation of costs and demand in market models” describes economic methods for estimating modelling parameters.

This part of the project was concluded with a course for the Competition Authority's staff. Employees of the competition authorities in Sweden and Denmark also took part in the course. The project will be continued in 2001.



**In the 2001 National Budget, the Norwegian Government has indicated its intention to promote greater competition in railway services.**

**The government's first aim will be to use the railways for the transport of goods.**

**The Institute of Transport Economics recently contributed to the debate through its report to the Ministry of Transport and Communications – "Competition in the Norwegian railway network".**

**The report discusses current organisation and recommends deregulation of railway operations.**

A blurred high-speed train, likely a Shinkansen, is shown in motion at a modern train station. The train is brown and white, with its windows reflecting the station lights. The platform is covered by a large, curved, grey overhang. In the background, a multi-story building with many windows is visible. A digital display board on the platform shows the time 19:18 and the destination Hyouo. The overall scene is captured with a motion blur effect, emphasizing the speed of the train.

# Activities

**This section highlights a cross-section of the activities of the Competition Authority: Verification and enforcement of prohibitions, interventions against harmful competitive behaviour, valuation of company acquisitions, exemption cases, opinions, price information and price surveys, a number of special tasks, international co-operation, information and communication.**



# Cases relating to the Competition Act

## Verification and enforcement of the provisions relating to prohibitions

In 2000, the Competition Authority handled 101 cases relating to the prohibition of collaboration on prices, and on supplier regulations. Four cases were reported as crimes, while 50 were concluded by reminding the company to comply with the provisions.

Verification and enforcement cases	1996	1997	1998	1999	2000
Handled	189	121	214	114	101
Dismissed	112	38	97	92	47
Compliance demanded	71	81	114	20	50
Compulsory fine	0	1	0	1	0
Reported as crimes	1	1	3	1	4

The Competition Authority verifies that the business community complies with the prohibition provisions of the Competition Act, or with resolutions made in accordance with the Act, primarily by carrying out investigations of individual companies. Those cases that are investigated and assessed are often complex and take considerable time.

### Securing of evidence in accordance with Section 6–2

According to Section 6–2 of the Competition Act, the Competition Authority has the right to demand access to property, stocks and other chattels to look for evidence when there are reasonable grounds to assume that the Act, or resolutions made in accordance with the Act, has/have been infringed. The court of examination and summary jurisdiction is the authority that decides whether to grant the right to search for evidence. The Competition Authority carries out these searches for evidence in accordance with Section 6–2 and as stipulated in the Authority's internal guidelines for routines and working methods relating to the search for illegal restrictions of competition. The guidelines ensure that cases are handled efficiently and in line with the tenets of legal protection guarantees.

In 2000, the Competition Authority secured evidence in two cases in accordance with Section 6–2 of the Competition Act. These cases related to the hotel trade and the sale of brown goods.

### Current cases

The Norwegian Impresario Association (Denif) was reported in July 2000, for collaborating on prices and for influencing prices in performing arts agency activities. The association accepted a fine of NOK 100,000 from the National Authority for the Investigation and Prosecution of Economic and Environmental Crime in Norway (Økokrim). Denif organises impresarios, i.e. entertainment agencies organising concerts and tours for performing artists. Up to last year, the association's contract terms stated that its members had to demand at least a 15 per cent commission from the artists' fee. The contract also stated that if two members collaborated on an assignment, the commission had to be divided equally between them. Furthermore, the association would not allow its members to share jobs with agencies that were not members of Denif, unless special consent was granted by the board. The organisation also exercised a certain control of the market by means of its members having to send in lists of the artists they represented. The case was brought before the Competition Authority by an agency that was not a member of Denif and which had often been excluded from the market. Following the report, Denif changed its articles of association to meet the terms laid down by the Authority.

In November, 2000, the furniture manufacturer, Aannø Industri AS, and the furniture retailing chain, Bohus AS, were reported to Økokrim for influencing prices and complicity in influencing the prices of its dealers respectively. Aannø Industri is suspected of having put pressure on its dealers because their prices were too low. Aannø Industri complained about the dealers' high discounts and some of the dealers were given "B-customer" status and poorer sales terms. The Bohus retail chain, which is by far the largest purchaser of goods from Aannø Industri, is suspected of having persuaded, or pressured, Aannø Industri into illegal price-fixing. This may have been because the Bohus chain was dissatisfied with the low prices prevailing due to the tough competition in the trade.

Further to a previous case in which evidence was secured, Kärcher AS and four previous employees in the company were reported to Økokrim in November 2000, for having influenced the prices set by the dealers. Kärcher sells various types of cleaning machines to a number of dealers throughout Norway. The company considered its dealers were keeping their prices too low and is suspected of having pressured them in a variety

of ways to increase their prices. Kärcher claimed that the low sales prices offered by its dealers squeezed profit margins. Kärcher is accused of limiting the discounts it offered those dealers who it alleged were maintaining excessively low prices and is said to have threatened that it would cause supply problems and loss of market support if its dealers did not increase their prices to the “right” level.

Other cases relating to illegal influence of dealers’ prices were concluded with written enforcement of the provisions and orders to inform dealers that they were fully entitled to determine whatever level of prices they wanted.

In one case, one person was reported to the police for having given incorrect information relating to Section 6–1 of the Competition Act.

### Miscellaneous

The Competition Authority has set up a telephone number that members of the public can ring if they know of any harmful restrictions on competition. The number is 800 999 22 and information on the service is given on the Authority’s web site: [www.konkurransetilsynet.no](http://www.konkurransetilsynet.no).

A working group has evaluated, and proposed routines for, the Competition Authority’s securing and handling of electronically stored evidence. The group drew up a report proposing a number of improvements.

### The Competition Act prohibits the most serious types of restrictions on competition:

- All collaboration on prices, gross profits and discounts on the sale of goods and services that might affect competition, regardless of whether this collaboration takes place as a result of agreements, co-ordinated practices, guidelines, instructions, external influences, or any other factors;
- Supplier regulations that take the form of one supplier (or several collaborating suppliers) determining or influencing the prices or discounts that a purchaser / dealer is bound to accept in selling his goods and services; any supplier has the right, however, to suggest recommended prices;
- All collaboration between businesses relating to tenders, regardless of whether such collaboration concerns prices, bills of quantities, or terms; collaboration on the distribution of tenders, or the decision that certain parties must refrain from submitting a tender;

- Allocation of segments of the market between businesses in the form of geographical areas, customers and quotas, and collaboration on specialisation or quantity limits; a single supplier is entitled, however, to enter into an agreement with his dealers on dividing the market, or on the determination of their geographical market areas;

These prohibitions apply even if associations of businesses determine, or urge their members to accept, illegal collaboration or restrictions.


Infringement of the prohibitions of the Competition Act may be punished by fines or imprisonment, as well as by the confiscation of any profits the businesses have made through their criminal conduct. The provisions relating to the prohibitions are to be enforced by ordinary inspections, or, in serious cases, by the securing of evidence on the consent of the court of examination and summary jurisdiction.

## Intervention to halt activities harmful to competition

In 2000, the Competition Authority assessed 74 cases relating to collaboration deemed to restrict competition and damaging use of market power, as laid down in Section 3–10 of the provisions governing intervention given in the Competition Act. Seven decisions to intervene were made. Following exhaustive assessment, the Competition Authority found no grounds for intervention in 13 cases, and quickly dismissed the remaining cases.

Intervention cases carried out in accordance with Section 3–10 1996					
1997	1998	1999	2000		
Cases handled	61	79	52	69	74
Intervention decisions	3	11	4	4	7

In addition to individual decisions, the Competition Authority has adopted, in accordance with Section 3–10, a regulation governing maximum prices for taxi services. The regulation implements the decision of the Ministry of Labour and Government Administration that the regulation of prices may be abandoned in areas where there are two or more taxi companies, as long as there are no conditions that might otherwise prevent competition.



Based on Section 3–10 of the Competition Act, the Competition Authority may, by means of individual decisions or regulations, intervene to halt conditions, agreements, or activities that the Authority considers have the aim of, have the effect of, or are suitable for the purpose of, restricting competition in conflict with the aim of using the society's resources efficiently. Examples of conduct that may be covered by the provision relating to intervention are: the use of methods that restrict competition to maintain a dominant market position, the exclusion of competitors, the rejection of business contacts, and the refusal to grant membership to associations. Intervention may take the form of issuing a prohibition, giving an order, or granting consents subject to certain conditions. Resolutions may also involve regulating the respective business's prices.

## Important cases

### Light clinker

Norsk Leca AS is part of the German-owned Scancem Group and has a market share for light clinker in Norway of approximately 85 per cent. The company is the only Norwegian manufacturer of light clinker, but is now subject to competition from abroad. Through its exclusive supplier contracts with its 700 dealers, Norsk Leca had a grip on a significant percentage of the available network of dealers. This made it difficult for other suppliers to establish themselves in the market. The Competition Authority thus prohibited Norsk Leca from demanding that dealers should sell light clinker exclusively from Norsk Leca, or that light clinker from Norsk Leca should constitute a fixed percentage of the dealers' sales of light clinker products.

### Municipal pension insurance

Based on the requests from municipalities that wished to change supplier of pension insurance, the Competition Authority assessed intervention against certain provisions of the Basic Collective Agreement for Municipalities. The agreement was entered into by the Norwegian Association of Local and Regional Authorities and a number of employees' organisations. The provisions restrict the municipalities' right to transfer pension insurance agreements by demanding that the new product must be "investigated by the Banking, Insurance and Securities Commission" before a transfer can take place. The Competition Authority found that the provisions regulated

business activities in a way that restricted competition, especially in that they prevented transfers from the dominating supplier, KLP Insurance, to competing life insurance companies. The lack of competition may lead to a loss of efficiency through reduced pressure to reduce the companies' costs and to meet profit requirements, and by preventing municipalities whose employees have a favourable risk profile from transferring their insurance policies to group insurance schemes which reward this. The Authority deemed the loss of efficiency too insignificant, however, to justify intervention.

### "El-number bank" – product numbering system

In February 2000, the Competition Authority intervened in the practices of the Association of Electrical Contractors in respect of the product numbering system called "El-number bank". It is essential for people wishing to start a wholesale company in the electrical trade to have access to the product numbering system, and this, together with the requirement to be a member of the Association of Electrical Contractors, has been an obstacle to starting up. The Association of Electrical Contractors was ordered to allow companies that were not members of the association to submit products for registering in the product numbering system on the same terms as the members. Furthermore, the Association of Electrical Contractors was ordered to allow all users of the product numbering system to have the right to participate in the Product Numbering System Committee, which compiles the rules and resolves disputes between users of the product numbering system.

### Skirt and apron material

Norway's sole manufacturer of skirt and apron material for the historical costume of the region of Troms, Røros Tweed AS, refused in 1996 to deliver material to the company, Elsa M. Systue, in Tromsø. This was apparently because there was an agreement that Husfliden Tromsø AS (Husfliden) should have the exclusive right to sell the materials. The Competition Authority ordered Røros Tweed to supply Elsa M. Systue on the same terms as it supplied Husfliden. Yet, despite the Authority's resolution, Elsa M. Systue did not receive its supplies. In November 2000, the Competition Authority therefore ordered Husfliden to supply Elsa M. Systue with the materials on the same terms as it supplied Husfliden. The resolution also stipu-

lated a ceiling for the quantity of material that Husfliden was bound to supply to Elsa M. Systue every year. Husfliden has appealed to the Ministry of Labour and Government Administration against the resolution.

### Supply terms for wool and meat

The Competition Authority resolved that the Sales Co-operative of Northern Norway (Nord-Norges Salgslag) be prohibited from stipulating in its articles of association that members must deliver all their production of wool to the Co-operative. The Authority also prohibited the Co-operative from exercising the provisions of its supply terms that made the prices for wool dependent on the delivery of meat by its members to the Co-operative. By linking the two markets, the Co-operative exploited its position in the market for meat in order to restrict the competition in the market for wool.

### Destruction of animal waste

The two companies, Norsk Fett- og Limindustri AS and Fisklim

og Førstoff AS, which both deal in the destruction of animal waste, complained to the Competition Authority about certain requirements that Norsk Kjøttssamvirke BA laid down for Norwegian fodder producers. The products created with the rendering of animal waste (bone marrow and fat) are used in animal fodder. According to the requirements laid down by Norsk Kjøtt, the rendering plants handling foreign waste would not have been approved as supplier to the Norwegian fodder industry. This was the case even if the foreign waste was not to be included in the production of Norwegian fodder. Norsk Kjøtt's own rendering plants do not handle foreign waste and would have become, if adhering to the relevant requirements, the sole providers of bone marrow and rendered fat in Norway. Following the Competition Authority's warning of intervention, Norsk Kjøtt withdrew its requirements. The Authority then closed the case.





# Business acquisitions

In 2000, the Competition Authority assessed 40 cases relating to business acquisitions in the fields of foodstuffs, pharmaceuticals, electricity and telecommunications. Seventeen cases were dismissed at an early stage of proceedings. In 21 cases, the Authority decided, after exhaustive assessments, that there was no basis for intervention. The Competition Authority decided to intervene in two cases.

Business acquisitions	1996	1997	1998	1999	2000
Total cases assessed	46	41	46	31	40
Interventions	1	3	2	2	2

The Ministry of Labour and Government Administration assessed the appeal against the resolution made in 1999 in the case concerning Canal Digital Norge's acquisition of Norgeskanaalen AS. The Ministry annulled the resolution.

Founded in the provisions of Section 3–11 of the Competition Act, the Competition Authority has the power to intervene in business acquisitions if it finds that they would lead to, or would strengthen a significant restriction of competition in breach of the intent of the Act relating to the efficient use of the society's resources. The term "business acquisition" is intended to include mergers, acquisition of shares or units, and partial acquisition of a business enterprise. Intervention may take the form of issuing prohibitions, giving orders, or granting consents subject to certain conditions. Intervention must be carried out within six months after the acquisition agreement has been concluded. If there are extenuating circumstances, the Authority may intervene up to one year from the same date.

## Tamro OYJ – Apokjeden AS

In February, 2000, the Finnish company, Tamro OYJ, bought 23 per cent of the shares in Apokjeden AS. In remuneration for the shares, Apokjeden received 49 per cent of the shares in Tamro's Norwegian subsidiary, Tamro Distribusjon AS. At the same time, the parties entered into agreements that bound Apokjeden to use Tamro Distribusjon as its exclusive wholesaler for the members of the chain. Apokjeden had a very dominant position in the dispensary market at the time the agreement was entered into. The acquisitions and purchase commitment would therefore have given Tamro Distribusjon a dominating position in

the wholesale market for dispensary goods. On this foundation, the Competition Authority at first warned that it might intervene to stop the business acquisition. It subsequently became clear, however, that Apokjeden's market share had dropped, and that the Ministry of Health and Social Welfare had created guidelines to make it easier for new dispensaries to start up. The Authority therefore found that there were no longer any grounds for intervening to halt the acquisition or the distribution agreement. The Authority ordered the parties, however, to report on the development of the companies' turnover, market shares and the number of members in Apokjeden. This duty to report applies for two years.

## Carlsberg AS – Pripps Ringnes AB

The Competition Authority assessed the merger between Carlsberg AS and Pripps Ringnes AB. Carlsberg has a proprietary interest in Coca-Cola Drikker AS, which, in turn, has a very strong position in the Norwegian soft drinks market. Ringnes has a monopoly on the production and bottling of Pepsi in Norway. The Authority found that the competition in the Norwegian soft drinks market was very limited even before the business acquisition and that the current acquisition would thus reinforce this considerable limitation of competition. The Authority thus resolved that the business acquisition could not go ahead unless Carlsberg relinquished its proprietary interest in Coca-Cola Drikker AS. The company therefore had to give up its aim of having proprietary interests in, or production, sales, and distribution agreements with, companies that had the rights to The Coca-Cola Company's (TCCC's) trademarks in the Norwegian soft drinks market. The same terms applied in relation to companies which produced, distributed or sold TCCC's drinks in Norway.

## Statkraft SF – Skiensfjordens Kommunale Kraftselskap AS – Vestfold Kraft AS

Statkraft entered into agreements with Skiensfjordens Kommunale Kraftselskap AS (SKK) and Vestfold Kraft AS (VK) that Statkraft should acquire 34 per cent of the shares in each of the two companies. The Competition Authority assessed the acquisition in the light of Section 3–11 of the Competition Act. Wholesale trading of power is currently carried out in the Norwegian market by means of a spot market and financial markets. The acquisition would have no noticeable effect on con-



centration of producers in the Nordic wholesale market. Due to the bottlenecks in the distribution network, the geographical extent of the relevant market was occasionally limited to South Norway. It was in this market that Statkraft was increasing its influence, and the Competition Authority was worried that Statkraft was on the verge of acquiring such a significant share of the regulated production of power that it would have been able to exercise control over the market in South Norway. Following assessment, the Authority came to the conclusion that Statkraft would not be able to exercise control in the market to any extent that would lead to, or reinforce significantly, any restrictions on competition.

### **Felleskjøpene – Stormøllen/Statkorn**

As discussed in the annual report for 1999, Felleskjøpene took over in 1999 Stormøllen AS' concentrated cattle food activities and 50 per cent of the shares in Statkorn AS. In February 2000, the Competition Authority approved the acquisition subject to certain conditions. Felleskjøpene appealed to the Ministry of Labour and Government Administration regarding some of the terms of the Authority's resolution.



# Exemptions

Section 3–9 of the Competition Act empowers the Competition Authority to grant exemptions, subject to certain conditions, for agreements that conflict with the provisions of the Act that relate to prohibitions. The conditions that must be met for an exemption to be granted are that competition in the respective market is strengthened, that the efficiency gains made offset any effects that restrict competition, and that the competition regulations are of little significance on competition (or that specific factors have to be taken into account).

## Number of exemptions

In 2000, the Competition Authority assessed a total of 147 requests for exemptions. In 99 cases, an exemption was granted for the whole, or parts of, the planned collaboration. This figure includes 37 exemptions that were given for collaboration in chains or groups. Five requests for exemptions were rejected, while 43 exemptions were annulled.

The tables below show the prohibition provisions that the Competition Authority granted exemption from, and the legal basis for these exemptions. In some cases, more than one legal foundation can be applied, and exemption from more than one provision may be granted at the same time.

Exemption cases	1996	1997	1998	1999	2000
Handled	150	129	131	85	147
Granted	130	101	70	53	99
Rejected	12	7	1	6	5
Dropped / Annulled	8	21	60	26	43

Legal basis for the exemption	1998	1999	2000
Section 3–9 a) competition strengthened	29	21	32
Section 3–9 b) efficiency gains	18	8	31
Section 3–9 c) minor significance for competition	19	22	39
Section 3–9 d) special considerations	6	6	1

Provisions from which exemption was granted	1998	1999	2000
Section 3–1, Subsection 1, price collaboration	55	47	87
Section 3–1, Subsection 2, price influence	11	8	9
Section 3–2, collaboration on tenders	3	6	28
Section 3–3, market sharing	16	16	29

## Important exemption cases

### Central taxi services

When the regulation governing maximum prices for taxi services was suspended in certain areas (see section, above, on the taxi market), the need arose to assess exemption from the Act's prohibition on price and tender collaboration within just one taxi company. In this assessment, the Competition Authority pointed out the importance of the fact that the organisation of the taxi market through centralised taxi companies provided significant economic gains in efficiency, for example, through the distribution of orders and traffic routing. If different prices existed, the respective taxi company and customer would have to assess various combinations of price, pick-up distance and waiting time at the time of the order.

Based on these factors, 21 taxi companies were granted exemptions to continue their policy of maximum prices.

### Time and Product Consumption Specifications for painting cars

The Norwegian Car Trade Association distributes and gives training in a system of time and product consumption specifications for painting small vehicles. The system provides a standard by which to determine how long various types of painting work should take and how much paint should be used. The Competition Authority found that this system had the capacity to affect the prices of painting services, since it had to be assumed that it reduced the number of competition parameters in the market for the painting of small vehicles. The system was developed in collaboration with the insurance industry, which buys more than 80 per cent of the paint services in the relevant market. The Authority assessed the case based on the fact that the insurance companies would not want to use the system if it led to increased costs for them. The Authority thus assumed that the efficiency gains resulting from the time and product consumption specifications were greater than the loss of efficiency resulting from the reduction in the number of competition parameters. The Competition Authority therefore granted an exemption.

### Artists' and Copyright holders' remuneration

Organisations representing artists and copyright holders of protected intellectual property signed an agreement with the NRK

(Norwegian Broadcasting Authority) on a method of remuneration. The Competition Authority considered whether it would have been possible for individual artists/copyright holders to negotiate with the NRK, but decided that the interest organisation was a more suitable party in terms of negotiating strength for negotiating with the NRK as buyer. The Authority weighed the restriction on competition that resulted from the regulation of the level of remuneration against the saving of resources resulting from NRK subsequently being able to deal with organisations instead of individual artists/copyright holders. The Authority thus granted exemption for the agreements, as they promoted efficiency.

### **Collaboration on tenders**

Selmer ASA and Jernbaneverket Baneservice were granted exemption from the terms of Section 3–2 of the Competition Act in order to be able to collaborate on tenders and the development and maintenance of the railway network. The parties carry out complementary work, and are not competitors. There are, however, no requirements in the prohibition provisions that the collaborating parties are, or could be, competitors. For Section 3–2 of the Competition Act to be applicable, it is sufficient that there is a possibility for competition to arise. The Competition Authority concluded that the parties' collaboration fell under the terms of the prohibition on tender collaboration, but that an exemption could be given because the collaboration was of little significance on competition.

## **Rejected exemption applications**

### **Animal transport**

Hed-Opp Dyretransportforening applied for an exemption so that the association's members could collaborate on prices for transporting live animals to AL Hedmark og Oppland Slakterier. The Competition Authority had already granted an exemption for a committee from the association to negotiate with the slaughterhouse on transport prices. The slaughterhouse did not wish to renew this exemption. The Competition Authority considered, in particular, that the collaboration encompassed all appropriate transport companies in the area and that it was therefore inappropriate to grant an exemption on the grounds of the activities increasing competition, or on the

grounds of these activities being of little significance on competition. In general, collective negotiations reduce costs for both buyers and sellers. Savings would be limited, however, as it would relate to assignments for a maximum of only 17 transport companies. The slaughterhouses are under increasing pressure from their customers and thus have incentives to maximise the efficiency of their distribution systems. In this kind of situation, the gains acquired through collaboration would not offset the socio-economic loss resulting from the prevention of a more differentiated and cost-effective provision of transport services. Thus the collaboration also failed to meet the terms for exemption laid down in Section 3–9, Item b) of the Competition Act. Since no special considerations were to be taken into account, the Authority rejected the application for an exemption.

### **Environmental taxes**

The company that Næringsselektro appointed to deal with its returned goods intended to establish and run a nation-wide scheme for collecting and dealing appropriately with discarded electrical and electronic products. The Association of Electrical Contractors applied for exemption from the Competition Act's prohibition on price collaboration in order to co-ordinate the method of collecting the environment tax. This would have involved collaborating on prices in relation to parts of the total retail price. The Association of Electrical Contractors based its application on the fact that the co-ordination of the environment tax would give its members the opportunity to co-ordinate the presentation of their participation in the returned goods scheme. This would benefit the parties participating in the scheme, and would disadvantage those not adhering to the relevant regulations laid down by the Ministry of the Environment. The Competition Authority considered the benefits of the extra information were small. The Authority also believed that this type of regulation from such a large trade association might lead to a considerable restriction on competition. The application for exemption was thus rejected.



# Expert opinions

In accordance with Section 2–2 d) of the Competition Act, the Competition Authority is to call attention to the restraining effects on competition, where appropriate, by submitting proposals aimed at increasing competition and facilitating entry for new competitors.

In order to do this, the Competition Authority has to issue comments and specify those factors that restrict competition.

## Number of cases

A considerable proportion of the Competition Authority's work relating to public measures that restrict competition has concerned environmental factors, the energy sector, the finance sector, the telecommunications sector, and the dispensing chemists sector. In 2000, the Competition Authority assessed 179 requests for consultative opinions. The Authority made annotations regarding 77 of these. In 12 cases, the Authority contacted other public offices and drew attention to the negative effects of public regulations.

Cases according to the Competition

Act, Section 2–2-d)	1996	1997	1998	1999	2000
Handled	154	180	159	182	179
Expert opinions	64	92	60	78	77
Instances illustrated	4	11	51	17	12

## Contact with the municipalities

In autumn, 1999, the Competition Authority started a special campaign directed towards the municipalities sector. This work was continued in 2000. Through meetings with individual municipalities, the Authority wished to urge the municipalities sector to focus greater attention on the significance of valuing competition and efficiency factors in their purchase and tender procedures. At the same time, the Authority wanted to make the municipalities' purchasing staff more aware of the prohibition of supplier collaboration. The Competition Authority would like the municipalities to contact the Authority if they observe any indication of such collaboration.

## Meetings with the municipalities have shown that:

- the municipalities have become more aware of competition problems;

- the municipalities commented on cases and sectors that interested the Competition Authority;
- the municipalities have the potential to further increase the efficiency of their purchasing procedures;
- the municipalities need guidance and expertise on how to promote competition.

## Quota system for climate gases

NOU 2000:1 describes a quota system for trading with climate gases. In a comment to the quota committee's report, the Competition Authority stated that, if environmental factors were taken into account, the consents for emissions should be distributed so that competition in the market could help promote cost-effective solutions and thus the efficient use of society's resources. To this end, the Competition Authority emphasised that the quotas would have to be transferable. The Authority supported the recommendations of the quota committee's majority that every party should pay the full market price for emission quotas, and that no free quotas should be awarded to any industries. Furthermore, the Authority commented on individual issues relating to the structure of a possible future quota system, and how this would relate to competition legislation. It is important to safeguard a market that functions efficiently if a free international market is not established. The market should be made accessible to companies not bound by the quota system. Additionally, during the design stage of any auction scheme, the respective authorities should assess whether to lay down rules to prevent corporate activities that restrict competition where competition legislation should prove inadequate.

## New market scheme for grain

A working group appointed by the Ministry of Agriculture proposed a new market scheme for grain. The new scheme is to be based on the Storting's (the Norwegian Parliament's) resolution of principle relating to the replacement of the current system with a public sector obligation to buy, and guaranteed prices for producers, with a regulatory system for the target price and the market, as used in the schemes for milk, meat and eggs. The new scheme also assumes that the current system of permanent, administratively-determined customs duty rates will be replaced with a customs quota system.

The Competition Authority participated in the working group and also submitted an expert opinion. In its consultative statement, the Authority emphasised that market competition would only work efficiently if prices were allowed to find their own level. The Authority went on to say that any target price system should avoid too small a range limit as this would restrict market price movements. Furthermore, the Authority was of the opinion that the responsibility for regulating the market should be assumed by a neutral public administration body such as the State Agricultural Administration, rather than by Norske Fellekjøp. The Authority supported the conclusion of the working group that a quota system based on auction should be chosen, but expressed the view that a fixed rate of duty within the quotas should be established in the long-term.

### **Economic consequence analyses**

The Competition Authority participated in a working group led by the Ministry of Trade and Industry which, in October 2000, issued a guide on business economic consequence analyses. The guide, which is a practical tool for everyone preparing public sector reforms, new regulations, or other measures, contains a checklist of eight points that should be kept in mind at all times.

One of the points in the guide concerns whether regulation will affect competition factors in the business community. The following questions should be asked when analysing competition-related consequences.

- Can increased costs and more stringent requirements for expertise prevent new companies from starting up, or lead to unfair competition?
- Can regulation contribute to certain companies, such as market leaders, being given an advantage because they are asked for advice when the regulation is formulated?
- Will the regulation affect companies competing in the same market differently?
- Will the regulation affect existing, or potential, competitors differently?
- Will the regulation reduce the number of companies in the respective market?
- Will the regulation lead to a change in the general conditions

for Norwegian companies, compared to the conditions for foreign companies?

- Does the regulation lead to unfair competition in other municipalities?

### **Rules for public sector purchases**

In a consultation circular to the Ministry of Labour and Government Administration, the Competition Authority presented annotations to a report from the working group that had assessed the monitoring and enforcement system in the area of public sector purchases. The Authority stated in its introduction that the public sector spent over NOK 200,000 million on goods and services in 1997, corresponding to 20 per cent of the gross national product. The Authority said it was therefore important that the rules governing public sector purchases were effective. It then gave its support to the establishment of a new enforcement body. The new body would make the opportunity to appeal easier, and it would be possible to intervene before contracts were signed. Following a holistic assessment, the Authority resolved to support the establishment of a new body to resolve conflicts that would have no formal right of decision. It should be considered whether or not to give the Competition Authority the right to present cases to this body, and whether the Authority should be represented in a steering group for the body. The experience gained in using a body to resolve conflicts without formal power of decision should be assessed after a given time. Alternatives in the form of a separate inspection body, or an appeal committee, which has the power of decision should also be assessed. The Authority expressed scepticism to the idea of allocating the secretariat function to the Ministry of Trade and Industry as this could raise doubts about the latter's impartiality.



# Price information and price surveillance

Goods sold to consumers must be clearly labelled with the price. Many goods must also be labelled with the unit price. The Competition Authority has issued regulations on the price-labelling of goods.

Prices for services must also be given to consumers. The Competition Authority has issued regulations on how price information is to be given.

In 2000, the Competition Authority carried out 983 inspections to check if the terms of the price information regulations were being complied with.

Verification of compliance with the provisions relating to the provision of information on prices	1996	1997	1998	1999	2000
Number of inspections	2804	2970	2586	976	983
Enforcement of provisions	1559	1581	1075	587	432

The reason for there having been far fewer inspections in the last two years is that the priorities of the Competition Authority changed and resources were allocated elsewhere. The Authority has prioritised information on the new regulations relating to unit labelling. The regulation stipulates that the unit price for goods sold to consumers must be stated. The unit price makes it easier for consumers to compare prices of different goods, regardless of the size of the packaging. The regulation, which came about as a

result of the EU's price-labelling directive, came into force on 1 January 2000. The Authority considered information from the grocery chains to be of particular importance.

Now that the regulation governing maximum taxi fares has been abandoned in some areas (see section on the taxi market, above), special monitoring of price trends and price information provided by taxi companies operating in such areas will be carried out. The majority of taxi companies have been willing to comply with the provisions governing price information, as laid down in the general service regulations, and they have made the necessary information available.

Price surveys can be used as a tool for acquiring an overview of markets, and to increase customer awareness. Such measures are especially useful in markets where customers have not been used to paying much attention to price – for example, in recently deregulated areas, or where, for any number of reasons, it has been difficult for customers to gain information about special offers.

Eight price surveys were carried out; six of these were nationwide. The nation-wide surveys covered the price of power, fuel, building materials, car insurance, telecommunications prices and groceries. A survey was carried out on the price of fuel in order to assess the effects of the policy to even out the cost of freight on the determination of price (see discussion below).



# Other tasks

The Competition Authority has a number of additional duties:

## Rent Restrictions Act

The Competition Authority assessed 25 cases under the Act. This is a considerable decrease since 1999. A revised Act came into force on 1 January 2000. The scope of the Act is now, in general terms, limited to unfurnished, pre-war dwellings in Oslo and Trondheim. The right to intervene in matters relating to the Rent Restrictions Act was rescinded when the Act was amended.

Cases relating to					
the Rent Restrictions Act	1996	1997	1998	1999	2000
Assessed	131	116	105	58	25
Concluded	124	116	105	58	25

## Price Policy Act

In accordance with Section 2 of this Act, it is forbidden to demand, or to agree, prices that are unreasonable. The same applies to business terms that appear unreasonable in the eyes of the other party, or which clearly conflict with the public interest.

In 2000, the Competition Authority assessed 53 complaints. The increase in the number of cases last year was due to the fact that a larger number than usual of the telephone enquiries resulted in written complaints. All the cases were dismissed. In two cases, the defendant reduced his demands.

Price Policy Act, Section 2.	1996	1997	1998	1999	2000
Complaints assessed	67	63	45	29	53
Dismissed	62	58	41	26	51
Reduction in the price demanded	4	4	4	3	2
Cases reported	1	1	0	0	0

## Credit Purchase Act

The provisions in the Credit Purchase Act that concern credit terms are enforced primarily through the monitoring of advertising and, if applicable, through information meetings with the main companies involved and the advertising consultants of large newspapers.

Credit Purchase Act	1996	1997	1998	1999	2000
Number of inspections	233	496	564	631	315
Enforcement	197	486	648	464	262
Cases dismissed	36	10	16	167	53

## The Marketing Control Act

The Consumer Ombudsman has been given local assistance in the enforcement of the Marketing Control Act in line with co-operation agreements entered into previously. The Consumer Ombudsman controls the professional activities. The reduction in the number of cases is partly due to the fact that there were fewer co-ordinated inspections than there were in earlier years.

The Marketing Control Act	1996	1997	1998	1999	2000
Cases assessed	1446	1757	1286	1200	844
Infringements	677	910	810	813	595
Reported to the Consumer Ombudsman	96	132	102	121	120

## Forecasting the trend of the consumer price index

The Competition Authority has been commissioned by the Ministry of Labour and Administrative Affairs to draw up forecasts for the trend in the consumer price index. The forecasts are compiled twice a year.

## Funding schemes

The Competition Authority assessed and passed for payment 348 demands submitted for state subsidies in 2000. A total of NOK 163m was paid in state subsidies, broken down as follows: NOK 142 million for writing down the freight subsidy for mineral oil products, NOK 18.3 million for the writing down of prices for certain kinds of fruit delivered to Northern Norway, and NOK 2.7 million for adjustment of the prices for milk in Nord-Troms and Finnmark.

The Competition Authority gave notice of its wish to enforce practices for awarding subsidies in accordance with the scheme for equalising transport costs. The intention of this was to prevent the funding from being used to finance local price wars that could prevent companies from trying to start up in the market. This proposal led to vociferous protests from the oil companies and to a great deal of debate in the media. The Authority was instructed by the Ministry of Labour and Administrative Affairs to withdraw the proposal.



# International co-operation

## European Economic Area (EEA)

The Competition Authority considers its work with EEA matters a high priority. The Authority participated in 44 meetings in Brussels that related to EEA co-operation; 22 of these related to individual cases and 22 related to regulatory matters.

The European Commission's (EC's) Directorate General for Competition (DG Competition) continued its work on a full revision of the competition regulations. The Directorate worked in particular with the Commission's white book relating to the revision of procedural rules in Council Regulation 17/62, which, in the course of the year, turned into a proposal for a new council regulation. Representatives from the Competition Authority participated in a number of meetings as part of a working group appointed by DG Competition. Norway played a key role in the expression of joint declarations put forward by the EFTA countries in the matter.

The Competition Authority also took part in the Commission's other work on matters pertaining to the rules, including new group exemptions and guidelines for vertical and horizontal regulations respectively. The group exemptions have been incorporated into the EEA Agreement and implemented in Norwegian law. Furthermore, a great deal of work was done on the revision of the EC merger regulations. This includes simplified procedures, restrictions directly related to and necessary to concentrations and remedies acceptable under Council Regulation (EEC) no. 4064/89 and under Commission Regulation (EC) no 447/98. Work was also carried out on a "mid-life evaluation" of group exemption for motor vehicles.

Aker Maritime ASA's acquisition of shares in Kværner ASA would have given Aker Maritime 26.7 per cent of the voting rights in Kværner. The Commission was the sole competent authority for assessing the case, and the case was a collaboration matter in accordance with the EEA Agreement. The Competition Authority was updated continuously. Following the decision by the Commission to investigate the acquisition in greater detail, Aker Maritime withdrew its notice in December and decided to reduce its proprietary interest to 17.8 per cent.

## OECD

All 29 OECD countries are represented in the Competition Committee of the OECD. Some non-members are also represented. The Committee is an important international forum for

the exchange of experience relating to the enforcement of the competition laws and the development of joint standards for competition policy.

An important part of the discussions within the OECD relate to so-called regulatory reform. This concerns changes that aim to improve the functioning of competition and the markets. The competition authorities are playing an important role in this work. In 2000, national inspections of the regulatory reform work were carried out in Greece, Italy and Ireland. Furthermore, round-table conferences were organised to discuss related topics: the distribution of gas, pharmaceutical products, local waste management and rural transport.

Another important work programme is the discussion of various problems relating to international competition policy and the relationship between trade policy and competition policy. The work has consisted of following up the OECD recommendation from 1997 relating to the fight against cartels. Round-table conferences were also arranged to discuss the electrical trade, mergers in the financial sector, joint ventures, and so-called leniency programmes. The leniency programmes of the individual member states offer amnesty or reduced fines to those participating in cartels in exchange for information relating to the illegal activities that they have been involved in. Such programmes are considered important for unveiling illegal cartel activities.

## Nordic collaboration

The Nordic competition authorities work closely together. In collaboration with other Nordic countries, the Competition Authority has compiled assistance guidelines relating to the enforcement of national competition regulations. The guidelines were approved by the competition directors of the Nordic countries in May.

The Competition Authority now has the legal authority in accordance with the Competition Act (amendment of 5 May 2000) to exchange confidential information with the competition authorities of other countries. In December, a Norwegian negotiation group with members from the Ministry of Labour and Administrative Affairs was appointed. Its mandate was to negotiate a bilateral, or multilateral, internationally binding agreement on the exchange of confidential information with one or more other Nordic countries. An agreement between



Denmark, Iceland and Norway was signed in Copenhagen on 16 March 2001, and came into effect on 1 April 2001.

The Competition Authority arranged the annual meeting for 2000 for all the Nordic competition authorities.

### **Other international collaboration**


As more and more countries acquire modern competition legislation, and as the enforcement of this becomes more effective, new international collaboration initiatives have been taken. The World Trade Organisation (WTO) has appointed a work group for trade and competition. The UN, under the aegis of UNC-TAD, has established a group of experts for competition policy, which is very active. The OECD has a development programme directed towards non-members. The latest addition to the OECD structure is a forum at which member states and non-member states can discuss problems. The EU Commission and the USA are considering jointly the establishment of a global

forum at which every country that has competition legislation, or that is working on acquiring it, may participate.

In collaboration with NORAD, an agreement was entered into for technical assistance with the competition authorities in South Africa (Competition Commission South Africa). In accordance with the agreement, two representatives for the Competition Authority went to South Africa to provide advice and practical assistance. Furthermore, one of the Authority's employees assisted in teaching competition economics. It was also agreed that two representatives from the competition authorities in South Africa would participate in observation practice at the Competition Authority in 2001.

The Competition Authority also held technical presentations at a Baltic conference in Vilnius, Lithuania. The conference was held under the aegis of the OECD and had participants with experience from competition authorities in the Baltic States, the USA, Russia, Germany, Sweden and Norway.





As a public corporation (a state-owned company prior to 1996), Norway Post has always been the largest and most important company in the market for postal services.

For many years the company has had a monopoly on the delivery of letters in certain weight and price classes.

Partly due to developments in the EU, this monopoly has been somewhat reduced.

We expect this trend to continue in the coming years.

This means that an increasing share of the market for postal services will be subject to competition from the private sector.

Alternative products such as facsimile and e-mail are also challenging the monopoly of Norway Post.



# Organisation

**The Ministry of Labour and Government Administration has requested that the Competition Authority prepare for the winding down of the Competition Authority's eight regional offices.**

**This has resulted in a comprehensive programme of re-organisation. The new organisation will be in place before the end of the first half of 2001. One area of priority is competence.**

**The Competition Authority is also endeavouring to improve external and internal information and communication.**



# Organisation

## Re-organisation

As part of the public sector renewal process, the Ministry of Labour and Administrative Affairs requested in its letter of 13 September 2000 that the Competition Authority re-organise with a view to winding down its regional offices. The decision to close these offices was made in the light of tighter budgets and the necessity to assemble in one place the resources required to meet the challenges faced by the competition authorities.

While the re-organisation process will lead to redundancy, an important objective during the winding-down process in 2001 is that no one is left unemployed. The Competition Authority is investing considerable resources to ensure that the employees who are made redundant will be able to take up alternative, meaningful employment. Since those involved will all have different requirements, we will attempt to find a suitable solution for each individual. We have, for example, been working on agreements regarding observation practice and further education, looking for jobs, and career advice.

## New organisation

In connection with the re-organisation process, we have compiled an organisation report and a draft strategy for the new organisation.

The new organisation will be set up in the first half of 2001 and will focus greater attention on professional co-ordination and project organisation. We will be developing project work as a working method throughout the organisation and will use this method whenever appropriate. Target-oriented project work can improve the utilisation of resources and enhance professional skills and well-being. Managers and other employees will be given training in control management participation in project work. We will compile a more efficient system for managing

operations and for reporting. Furthermore, we will be establishing target times for dealing with individual cases, as well as routines for follow-up.

## Personnel

The Competition Authority had 147 employees as at 31 December 2000. Of these, 57 were employed in the regional offices and 90 were employed at the head office in Oslo. Fifty-four per cent of employees were men, while 46 per cent were women. A total of 135 man-years were worked in 2000.

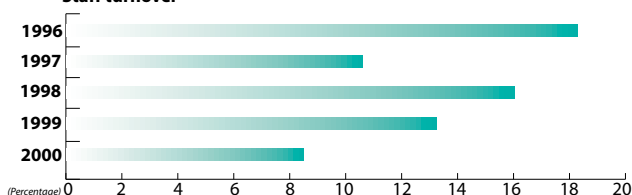
## Staff turnover

Staff turnover in the Competition Authority was 18 per cent (turnover is the number of people resigning from their appointment measured as a percentage of the total number of employees at the beginning of the year). During the year, 28 employees left the Competition Authority and 25 new appointments were made. Average seniority for those who resigned in 2000 was five years. The figure shows staff turnover at the Competition Authority between 1996 and 2000. We aim to reduce staff turnover from the high rate recorded in 2000.

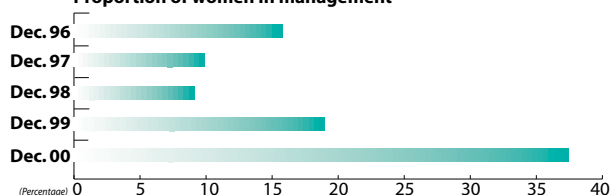
## Women in management

The Competition Authority has concentrated on appointing women to management positions over the last few years. As at 31 December 2000 there were three women in the six top management positions. The number of women in line and section management increased across the board from 8 per cent at the end of 1998 to 38 per cent at year-end 2000. The Competition Authority thus reached the target of 38 per cent set by the Ministry of Labour and Government Administration for the number of women in management in the government ministry sector. Six management vacancies for positions involving personnel

Staff turnover



Proportion of women in management



responsibility were advertised in 2000, and three of these vacancies were filled by women.

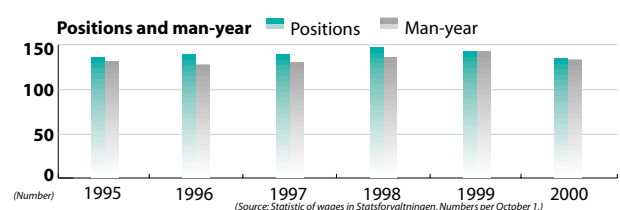
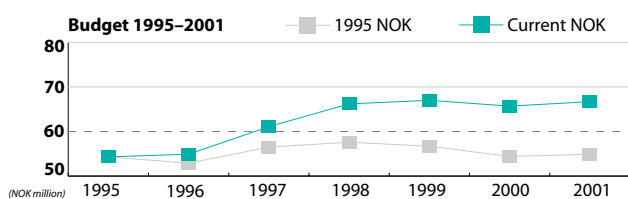
### Grants and use of resources

The activities of the Competition Authority are funded entirely by central government grants. The figure below provides an overview of the Competition Authority's grants between 1995 and 2000. The grants, in current NOK, increased in this period, except in 2000. This is due to the restructuring of the state sickness benefit scheme. Real value in the budget increased from 1995 to 1998, then decreased to 2001. The decrease in the annual budget since 1998 was approximately NOK 3 million (1995).

The fall in the number of positions and man-years in 2000 in relation to the two previous years is due to changes in the budget.

The Competition Authority recorded 135 man-years in 2000. The table below provides an overview of the Competition Authority's recorded man-years categorised by department/staff and primary/result targets.

Distribution of man-years	2000
Competition Department	26.5 %
Surveillance Department	46.0 %
Legal and Economic Secretariat	10.5 %
Information Staff	2.5 %
Administrative Department	14.5 %
	<b>100.0 %</b>





## Units within the Competition Authority in 2000

### Competition Department

The Competition Department is responsible for observing and counteracting harmful restrictions on competition, for assessing exemptions from the provisions governing prohibitions, and for assessing intervention in conduct and business acquisitions that might restrict competition.

### Surveillance Department

The Surveillance Department ensures that trade and industry acts in accordance with the orders and prohibitions of the Competition Act and contributes to sufficient price information in the markets.

### Legal and Economic Secretariat

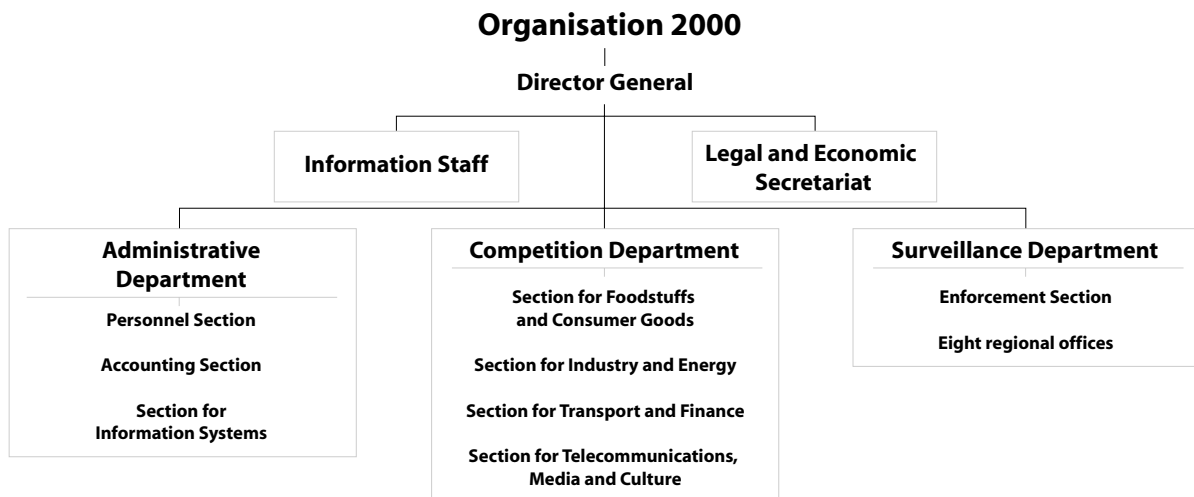
The Legal and Economic Secretariat carries on legal and economic investigation work and work associated with national and EEA-related legislation. The Secretariat assists the Competition Director-General and the specialist departments of the Authority in ongoing cases and matters of principle and is responsible for building up competence internally.

### Information Staff

The Information Staff develops and follows up the information strategy and assists the Director General and managers in their information work.

### Administrative Department

The Administrative Department provides services to the whole organisation in respect of personnel administration, financial management, documentation, IT and other shared administrative services.



## The new organisation

The increase in project organisation and teamwork will lay heavy demands on all staff – especially managers.

### The Market Monitoring Departments

The Market Monitoring Departments are to use all the resources of the Competition Authority to survey the markets and implement measures to counteract restrictions on competition, in order to promote efficient use of society's resources.

### Investigation Department

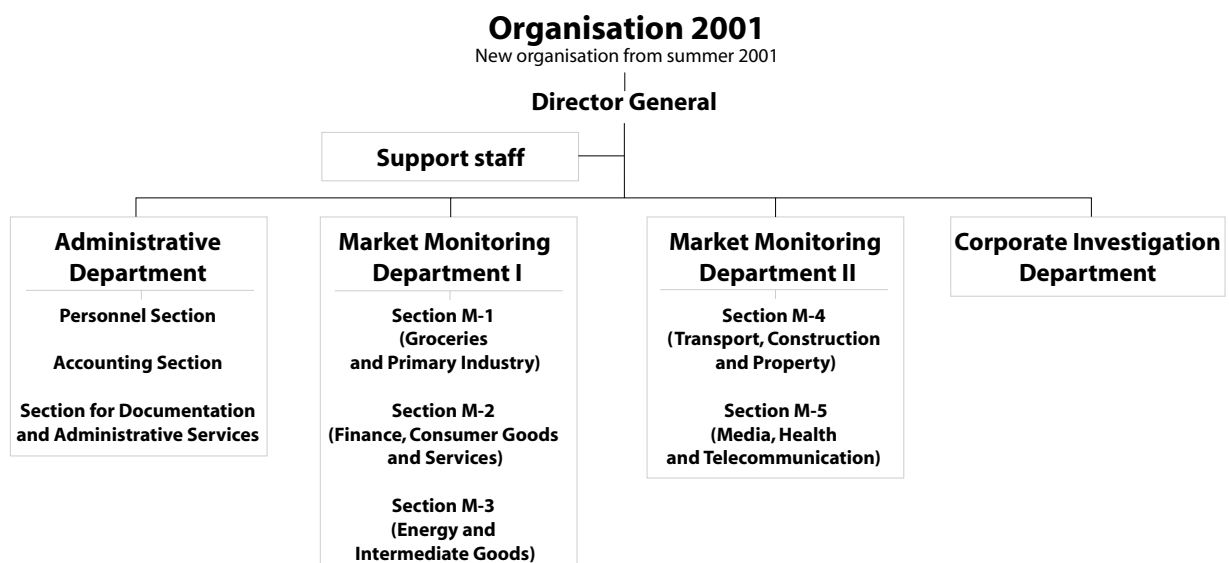
The Investigation Department will be the chief authority responsible for processes, criminal law issues and investigation issues relating to the surveillance activities of the Competition Authority. The department will also be responsible for planning and carrying out inspections and for securing evidence.

### Administrative department

The Administrative Department is to provide the whole organisation with services in the areas of personnel administration, financial management, documentation, IT and administration.

### Staff

The Staff will have a cross-disciplinary area of responsibility in the organisation. The main tasks of the Staff will be the co-ordination of projects on legal and financial reports, the co-ordination of international activities, and internal and external information and communications work. The staff will also act as an advisor to the Director-General of the Competition Authority in specific cases.





# Competence

The markets are evolving rapidly and the companies in the markets are becoming more professional. The Competition Authority's level of competence must be high and must develop in a way which allows it to solve new problems and face new challenges. Our staff must be able to adapt and have the ability to deal with new problems and working methods. We therefore consider the development of expertise a high priority.

To recruit and keep diligent staff, it is important to have a solid, professional environment that makes it appealing to work at the Competition Authority. The Competition Authority's requirement for top-level staff has increased. It thus provides a comprehensive internal training plan. In 1999–2000, the Competition Authority held a 40-hour series of lectures on the subjects of competition law and economics. We also offered a course in the theoretical aspects of auctions. The course was carried out in collaboration with the Norwegian School of Management. Some staff have also assembled a group to work on EU competition law. The group's material comes from the

exam course "EC Competition Law" run by King's College London. The Competition Authority also arranged a number of other internal courses and seminars throughout 2000.

In 1999, we started a development programme to boost the formal skills of staff in the field of economics in provincial offices. The programme, which was organised in collaboration with BI Distance Learning, was continued in 2000. Results were good and feedback from the participants was positive. However, with the re-organisation announced in autumn, 2000, it was decided not to continue with the programme in 2001.

The Competition Authority encourages employees to participate in courses held by other public authorities and institutes to develop their skills and to build networks. We are looking into the possibility of introducing observation practice in other units and international organisations. Many employees have had full-time or part-time leave to enhance their academic skills at Norwegian and foreign universities and training institutes. Such leave amounted to two man-years in 2000.





# Information and communication

The objective of the Competition Act is to achieve efficient utilisation of society's resources by providing the necessary conditions for effective competition. If the law is to work, the business community must be aware of it and must know the consequences of breaking it. The business community must also know the powers that the Competition Authority has and the way it works. The Authority also intends to provide greater information on rules and their interpretation, and the consequences of breaking the rules.

The Competition Authority is thus concentrating a great deal of effort in providing information to the business community and consumers.

The most important channels for disseminating information externally are the Internet, mass media and the news sheet "Konkurransenytt" ("Competition News").

## Web Site

The Competition Authority's web site is an important source of information and services. Little work was done to enhance the Authority's web site in 2000, but we are continuing to publish resolutions and decisions, news, price surveys, amendments to laws, new regulations and other information. The web site also has a separate database containing the latest prices for electricity and this is updated every week.

The Competition Authority really needs a boost to make its electronic information services even better for its user groups. At the same time as we want to develop and update our web site, we are also working on a modernised journal and archiving system called "JA-prosjektet" (the "YES Project"), as well as an intranet system for the more effective exchange of internal information. The electronic archiving project, the intranet project and improvements to the web site are all being carried out at the same time. These projects will be co-ordinated and completed in 2001.

## Mass media

The Competition Authority considers contact with the mass media very important. Such contact is useful for reaching the business community and consumers, and is important as a channel for external communication.

The information staff thus spend a lot of time working with the media, whether it is talking to journalists, answering ques-

tions, or providing journalists with contacts with managers in other departments.

Press releases are now distributed by e-mail to specific media groups and are published to the Competition Authority's web site with other news items. The Competition Authority published 38 such items to its web site in 2000.

## Journal and newsletter

The Competition Authority did not publish any copies of its journal "Konkurransenytt" ("Competition"), in 2000. The director decided to cease producing this journal and, instead, to issue a newsletter. The first number of "Competition News" came out in December 2000. There will be ten numbers per year. "Competition News" contains articles on the Competition Authority's resolutions and decisions, as well as news on competition policy nationally and internationally. Approximately 1,400 people currently subscribe to the newsletter.

The Competition Authority also published a new booklet, this time on the grocery trade.

## Brochures

The Competition Act was amended in 2000 and the Competition Authority published brochures detailing the new Competition Act in English and Norwegian. The law was also updated on the Authority's web site.

## Corporate profile

The Competition Authority has started work on developing a new corporate profile. This work should be finished in the first half of 2001.



**Konkurransetilsynet**  
Norwegian Competition Authority

**Konkurransetilsynet**  
P.O.Box 8132 Dep, NO-0033 Oslo  
Visiting address: H. Heyerdahls gate 1  
Phone: + 47 22 40 09 00  
Fax: + 47 22 40 09 99  
E-mail: [post@konkurransetilsynet.no](mailto:post@konkurransetilsynet.no)  
[www.konkurransetilsynet.no](http://www.konkurransetilsynet.no)

Circulation: 750  
Photos: Pow-Wow Studio,  
Rune Mæhre og Christian Hatt  
Design, layout og production: Gazette  
Translation: Apropos Translatørbyrå AS  
Printing: Grafisk Senter Grøset AS  
October 2001





---

## ■ Introduction

Foreword	4
The Competition Authority	6
Revision of the Competition Act	7

---

## ■ Competition in the Norwegian economy

Competition and regulation indicators	10
Markets	12
Research and development	21

---

## ■ Activities of The Competition Authority

Cases relating to the Competition Act	26
Business acquisitions	30
Exemptions	32
Expert opinions	34
Price informations and price surveillance	36
Other tasks	37
International co-operation	38

---

## ■ Organisation

Organisation	42
Competence	46
Information and communication	47

---