

Annual report

2004

Sound competition
results in variety, fair
pricing, and quality

Norway's hard hitting Competition
Authority is moving to Bergen

Heightened monitoring of
food, healthcare, and liberal
professions in 2005



Konkurransetilsynet
Norwegian Competition Authority

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NCA's tenth anniversary

In 2004, the Norwegian Competition Authority celebrated its tenth anniversary; Norway's new Competition Act went into force on 1 May. According to an independently conducted market survey, an increasing proportion of Norwegians are familiar with the Competition Authority's work. In challenging times, the Authority has succeeded in strengthening its reputation.

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New day for publishing

For many years, the Norwegian book industry has enjoyed exemptions from competition laws, operating under agreements that restrained competition. The Norwegian Competition Authority is seeking to remove the most significant of these obstacles to competition.

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Cartel violators pay NOK 100 million in penalties

Over the past 15 years, the Norwegian Competition Authority and its predecessor have reported more than 40 serious cartel violations to prosecuting authorities. Approximately NOK 100 million in penalties, fines, and forfeitures have been assessed.

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Potential savings for car owners

The expenses involved in buying and operating a car make up, on average, 14 percent of household budgets. Enhanced competition is needed, particularly in car repair and maintenance.

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Cheaper air fares

Air fares have become significantly cheaper in Norway in recent years. A Competition Authority review shows that air fares on domestic flights dropped 40 percent from 2002 to 2004.

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2004 key figures

Personnel statistics

No. of employees	Oslo	Bergen	Total
No. of female empl.	51	11	62
No. of male empl.	50	13	63
Total	101	24	125
Sick leave	3.6%		
Staff turnover	12.4%		

Staff education

Degree in business or economics:	50
Law degree:	37
Other college or university education:	10
High school diploma or less:	28

Expenses

Amounts in NOK 1,000	Ordinary operations	Relocation expenses
Salary and other personell expenses:	45,730	6,576
Goods and services:	22,736	12,441
Total:	68,466	19,017

Seeking better food selection

"Quality and product range are more important than low prices," says renowned Norwegian chef Bent Stiansen. He believes that consistently choosing the cheapest food items leads to a cheerless existence. "Shopping should be an esthetically pleasing experience, which isn't the case today," he says.

In general, food prices in the Nordic countries are significantly higher than in other European countries. A European survey of retail prices revealed that food is, on average, 55 percent more expensive in Norway than in other European countries. The Competition Authority is spotlighting Norwegian food retailers' practices, and considers that competition in markets such as the food processing market is severely restricted.

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Telecom market needs more effective competition

Major price differentials among Nordic countries were verified in an autumn 2004 report on telecommunications prepared by Nordic competition authorities. Norway's Telenor charges its fixed telephone-line customers significantly more than other major Nordic suppliers. The Norwegian Competition Authority believes there is room for major price cuts.

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International participation pays off

"It has become easier for Norwegian businesses to compete in other EEA markets because competition rules and regulations have largely been harmonized."

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Targeting healthcare

A large proportion of Norway's national budget is spent on healthcare services. Competition is important to ensuring that the highest possible value is obtained from every Norwegian crown spent. Thus, terms and conditions governing private healthcare providers must be on a par with those of public-sector service providers.

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Relocating to the west coast

By year-end 2006, the Norwegian Competition Authority will have completed its move to Bergen, Norway's second largest city, located on the west coast of Norway.

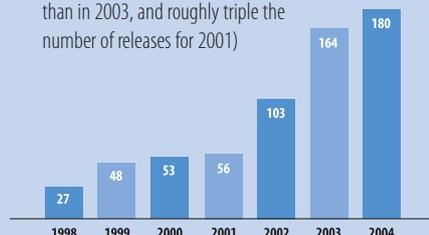
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Our vision

Sound competition for increased welfare

News releases issued by the Norwegian Competition Authority (NCA):

(2004: about 10% more news releases than in 2003, and roughly triple the number of releases for 2001)



NCA news items appearing in Norwegian media

2004: 5,311
2003: 5,025
(up 5.7 percent from 2003 to 2004)

An overview of cases handled by the Competition Authority in 2004 is presented on pages 27 and 28.



A landmark year for the Norwegian Competition Authority

The year 2004 was a noteworthy year for the Norwegian Competition Authority. The Authority celebrated its tenth anniversary, and on 1 May, Norway's new Competition Act went into force. Staff spent a great deal of time and resources on relocating the Authority from Oslo to Bergen; the move is due to be completed by year-end 2006. Focus, though, remained on our professional tasks.

I am pleased to note that, despite undergoing a period of challenge, the Norwegian Competition Authority has further enhanced its reputation. A survey conducted by MMI, a Norwegian marketing and media research group, shows that Competition Authority employees, commerce and industry members, and the general public view the Authority more favorably, and that a greater proportion of the population is familiar with the Authority and the work it performs. The survey reveals a consensus that the Authority contributes to greater business and industry competitiveness, lower prices, and better alternatives for consumers. Trust in and familiarity with the Competition Authority's work among the general public are vital to the Authority's continued success, for the benefit of consumers, business and industry, and society in general.

Norway's new Competition Act introduced a prohibition against abuse of dominant market positions, and continued the prohibition of cooperation restricting market competition, found in the previous Act. So far, the Authority's experience with the new Competition Act is favorable. Under the Act, the Competition Authority may issue penalties, thus shortening the time between the identification of illegalities and a response from the Authority. Because the Authority is able to levy penalties, it is less reliant on the resources of Økokrim, the Norwegian National Authority for Investigation and Prosecution of Economic and Environmental Crime, to investigate potential violations of competition rules and regulations.

The new Act also introduced an obligation to file a notification of mergers and acquisitions. The threshold for filing such notification was made low, to improve monitoring of business concentrations in local or small markets. The obligation to submit such notification and the implementation of more detailed procedural rules and regulations pertaining to mergers and acquisitions result in faster processing by

regulatory authorities and improved predictability among affected businesses.

The new Competition Act retained the Competition Authority's right to obtain evidence in cases where there are reasonable grounds to assume that the law or rulings have been violated. Some perceive this right as extremely intrusive. The Authority's view is that violations of the Competition Act are serious and carry major financial consequences for law-abiding businesses and consumers. Evidence in such matters is easy to conceal and difficult to identify. Thus, it is essential that the Competition Authority have the authority to seize evidence.

In 2004, the Norwegian Competition Authority processed a great number of issues involving a wide variety of markets. Priorities in 2005 will be civil aviation, domestic transportation, retail sales, and food. The Nordic cooperative project "From farm to table" will play a key part in our monitoring of food retailing. We will also continue to focus on the book industry. And our attention will be on a new area: competition-restricting agreements, laws, and regulations affecting the so-called liberal professions, such as lawyers, consulting engineers, architects, medical doctors, and dentists. The Authority's new unit in Bergen will be particularly concerned with monitoring incentives and resource utilization in health-care services.

In June 2003, Norway's national parliament, Stortinget, decided to relocate the Competition Authority to Bergen by 1 January 2007. The Authority is to operate as usual during the relocation. The Authority will continue its efforts to ensure that as many employees as possible relocate with us to Bergen. Key personnel who have decided not to relocate will be retained in the organization for as long as possible.



"Priorities in 2005 will be civil aviation, domestic transportation, retail sales, and food. The Nordic cooperative project "From farm to table" will play a key part in our monitoring of food retailing."

Considerable efforts have been expended in making sure that the move does not result in unemployment for staff who choose not to relocate, and that the down-sizing in Oslo and re-sizing in Bergen proceed as planned. As of the autumn of 2005, some 50 of the approximately 110 Authority employees will be working in Bergen.

Oslo, February 2005
 Knut Eggum Johansen
 Director General
 Norwegian Competition Authority

A hard-hitting Competition Authority is needed

One cartel member says to another that his customers “are not my friends. You’re my friend. I wanna be closer to you than I am to any customer.”

THE quote is from a covertly recorded conversation – gathered as evidence by the United States Federal Bureau of Investigation – of discussions among key participants in the world-wide lysine cartel, which was prosecuted in the late 1990s. The statement not only reveals the intentions of the companies involved in the cartel, but hints at the enormous damage that can result from such industry-wide cooperation. The lysine cartel prosecution resulted in multi-million dollar fines for the companies involved and lengthy prison sentences for several senior executives.

The Norwegian Competition Act of 2004 focuses on uncovering and applying sanctions against violations of the Act’s two main prohibitions: illegal cooperation and abuse of market power. Work to ensure compliance is a Competition Authority priority.

The Norwegian Competition Authority must prohibit concentrations that would result in a significant restriction of competition. Another key responsibility of the Authority is to identify competition-restricting consequences of various measures adopted by public authorities and provide input for the purpose of furthering competition. The Authority is also charged with the responsibility of enforcing the competition rules and regulations found in the EEA agreement.

“In securing evidence, the Authority is free to search for and seize evidence from the party or parties subject to the search.”

Thus, gathering accurate and reliable data on which the Competition Authority bases its assessments is key. In the majority of issues processed by the Authority, it is to the parties’ benefit that the Authority receives all relevant market information and business details. However, in cases of possible violations of specific prohibitions, gathering the appropriate evidence can be very difficult.

Difficult to uncover

Typically, cartel activities are difficult to uncover. The methods of cooperation can be sophisticated, and participants do their utmost to hide their illegal conduct. The Norwegian Competition Authority collects information through investigations and unannounced dawn raids to secure evidence.

In securing evidence, the Authority is free to search for and confiscate evidence from the party or parties subject to the search. A warrant authorizing the search and seizure is issued by a court of first instance; a warrant will be granted if there is reasonable cause to suspect that the law has been violated.

Recent years’ experience shows that compromising material is often kept in private homes. Thus, the Authority has seized evidence in private residences in some instances. While seizures are perceived as drastic by those directly affected, this method of securing evidence must be viewed in light of the serious damage caused by illegal cartel activities.

International surveys, among them surveys conducted by the OECD, show that market prices often rise by 10-30 percent, and in some cases by 50 percent, when competitors enter into an illegal collaboration. The same figures apply to public bidding. Among other losses to society are diminished incentives for restructuring, efficiency, and innovation.

Norway’s location at the outskirts of Europe, its relatively small population, and its costly infrastructure make the country a challenging marketplace for new participants to enter. Many Norwegian markets are dominated by a relatively small number of established participants; these markets also have a non-complex structure, making

Commentary

Lars Sjørgard
Chief Economist, NCA

Well-conducted competition policy provides clear signals

“Everyone benefits from companies producing goods at the lowest possible cost. Effective competition guidelines tend to produce better and cheaper goods,” the Competition Authority’s Chief Economist Lars Sjørgard remarks. He believes that a well-conducted competition policy provides clear signals to business and industry that they need to adhere to certain rules of the game. Accordingly, the presence of the Authority and its ability to respond to apparent non-compliance are vital.

“This is our duty: to ensure that there is ample opportunity for all to compete,” Sjørgard emphasizes. He feels it is important the Authority prioritizes markets carefully.

“Our objective is to more carefully monitor the most important markets. To make correct decisions under the tight deadlines that apply to evaluating business concentrations, it’s important to be out in the field early on and to be familiar with market conditions. Ideally, all necessary information should be available at the start-up of an examination of a merger or other business concentration, so that the Authority can proceed effectively,” Sjørgard explains.

In addition to enforcing the Competition Act vis-à-vis business and industry, the Competition Authority is charged with the responsibility of presenting its views on market competition and competition policy to other governmental authorities.

“We advise against regulations that harm competition and violate the purpose of the Act,” says the Chief Economist.

“The immediate effects of monopolies and cartel formations on markets are price increases. A recent study found that cartels typically succeed in raising prices about 25 percent,” he warns.

it easy for participants to cooperate. Both the earnings potential for cooperating market participants and the damage inflicted on customers can be substantial.

The consequences are that typical consumers, companies, municipalities, and governmental organizations pay excessive prices for goods and services. Taxpayers often end up footing the bill. Public funds that should be spent to benefit society are diverted to business coffers.

Cartels fined NOK 100 million

The Norwegian Competition Authority and its predecessor have reported more than 40 serious cartel violations to prosecuting authorities during the past 15 years. More than 30 of these cases have been concluded, most through the issuance and acceptance of fines. Violators have paid some NOK 100 million in fines and withdrawal of gain.

In one case, the involved parties also paid NOK 55 million in compensation to customers. Fines for cartel activities are among the highest that have been levied for economic crimes in Norway. To act as a deterrent both in general and as to specific enterprises' malfeasance, punitive measures should be tailored to the seriousness of violations. Compared with fines issued by the European Commission, which can be for 10 percent of the turnover in question, the level of fines in Norway has been extremely low. Fines have barely reached one percent of the involved turnover. The new Competition Act of 2004 largely harmonizes Norwegian legislation with that of the EU and entails a significant increase in fines.

In determining fees and penalties for illegal cooperation that restricts competition, leniency can be granted in exchange for assistance to competition authorities in uncovering violations perpetrated by the company in question or by others. Experience from other countries and the EU shows that such leniency is an important factor in competition authorities' success in uncovering cartel activities. The leniency system has a deterrent effect; cartel partici-

pants perceive the risk that other members of the cartel may see their own interests best served by helping public authorities investigate their cartel.

The Norwegian Competition Authority is increasingly directing its attention to international cartels. The Authority depends on active cooperation with other countries' competition authorities. It assists the EFTA Surveillance Authority and the EU Commission in combating cartels, for example through practical, local assistance in investigations. However, the fact that Norway is not part of the recently established cooperation to exchange information among EU competition authorities poses challenges for the Norwegian Competition Authority. Norway, Iceland, Sweden, and Denmark have signed an agreement on mutual exchange of information related to cartel issues.

The Norwegian Competition Authority is increasingly directing its attention to international cartels.

Commentary

Anders Ryssdal

President of the Norwegian Bar Association, Law firm of Wiersholm, Mellbye & Bech

Common rules are beneficial



■ In Anders Ryssdal's opinion, it is a distinct advantage that Norway's new Competition Act now contains the same prohibition as acts governing the EU and other countries with situations comparable to Norway's.

His opinion as to rules for group exemptions and individual exemption assessments is the same.

Mr. Ryssdal views the new law as providing Norwegian merger rules with an excellent economic foundation, although it contains some extraneous characteristics. Regarding the latter, he says, "Particular instances concern intervention against minority acquisitions and some of the processing rules. For example, the duty to provide notification is far too comprehensive. We are also eagerly awaiting clarification of the practice the Authority will adhere to for issues such as how the law relates to local and narrow Norwegian markets. The 'intervention romanticism' that characterized the final phase of the work on the Act is unlikely to survive an encounter with reality," Ryssdal predicts.

He also perceives it as a definite shortcoming of the new Competition Act that it lacks rules and regulations as to private lawsuits from parties sustaining losses. This applies to both injunctions and suits for damages. "My guess is that the Ministry of Modernisation might be awaiting new initiatives by the EU. However, Norwegian private law must take the lead, since it is not for the Authority to initiate such actions. A committee should be appointed to examine such enforcement. The new rules and regulations on class action lawsuits that will enter into force this spring may also affect the law in the area," says Ryssdal.

Cartel facts 2004

■ Seizure of evidence:	4
■ Reported for prosecution:	1
■ Reported cases currently being considered by prosecuting authorities:	6

Cartels

■ Cartel activities is a term used to describe various types of cooperation that eliminate market competition in different ways. Rather than competing for contracts and deliveries – which customers assume to be the case – cartel participants may enter into agreements on market sharing, prices and rebates, on bid rigging, and on other issues. The results of such activities include price increases. The costs to society of illegal cartel activities can be significant.



“Case law under EU/EEA competition rules is an important legal source in the Norwegian Competition Authority’s enforcement of the prohibitions against anti-competitive agreements and abuse of dominant market position.”
Mads Magnussen, Legal Director of the Norwegian Competition Authority.

Positive experiences so far with the new Competition Act

“The new Competition Act entered into force on 1 May 2004, and so far our experiences with the new act have been positive,” says the Norwegian Competition Authority’s legal director Mads Magnussen. He feels the Authority was well prepared for the new Competition Act, but notes that enforcing the Act has been both work-intensive and challenging.

THE new Competition Act differs significantly from Norway’s previous legislation. Among the changes is harmonization of the prohibitions with those that apply under EU/EEA competition rules.

“Case law under EU/EEA competition rules is a key legal source for the Norwegian Competition Authority’s enforcement of the prohibitions against anti-competitive agreements and abuse of dominant market position,” Magnussen says.

Expanded in-house expertise

The Norwegian Competition Authority’s staff must now be more cognizant of practice under the EU/EEA rules. Consequently, a comprehensive expertise-building program in EU/EEA competition law was conducted for Competition Authority personnel.

“Naturally, we will make our own legal and economic assessments in the matters we process. However, we must always be aware of the limitations established in case law under the EU/EEA competition rules. It is also important that we in our decisions refer to and describe these sources of law, in order for the public to recognize our thorough work,” Mads Magnussen points out.

Mr. Magnussen believes it will be important to business and industry to have access to EU/EEA competition law expertise. He considers such access will reduce the uncertainty associated with being involved in cases before the Competition Authority.

Success in two court cases

The new Competition Act introduced new rules on the Norwegian Competition Authority’s power to conduct investigations and impose sanctions. In 2004, the Competition Authority expended significant in-house resources on considering a number of difficult legal issues raised by

those new rules.

The Competition Authority’s application of the procedural rules of the Competition Act has been brought before the courts in two instances; in both cases the court of appeal ruled in support of the Competition Authority.

In the first case, the court ruled that the Norwegian Competition Authority was within its rights when it made a copy of electronically stored information during an inspection at the pharmaceutical company NMD. In the second case, the court allowed the Competition Authority to confiscate correspondence with an external financial advisor during an inspection at the premises of the airline company SAS Braathens.

“It is the responsibility of companies to conduct business so as not to violate any of the prohibitions of the Competition Act.”

“I see these cases as an indication that we have made sound legal judgments and that our handling of cases is proper,” Mads Magnussen says. He explains that although such lawsuits require a great deal of resources and lead to delays in the processing of cases, companies are entitled to have courts review issues pertaining to inspections conducted by the Competition Authority.

Mergers and acquisition monitoring

The new Competition Act introduces a standard obligation to submit notifications of mergers and acquisitions. The obligation to submit such notification applies where the combined annual turnover of the involved companies exceed NOK 20 million. However,

the obligation does not apply if only one of the parties to a concentration has an annual turnover exceeding NOK 5 million.

The Competition Authority has drafted forms for submitting notifications of concentrations, along with detailed guidelines for completing the forms. The Competition Authority has also engaged in comprehensive efforts to disseminate information to businesses, industry, and advisors on the obligation to file such notifications.

“We will use the experience garnered in 2004 to intensify our efforts to identify breaches of the obligation to submit notifications and impose sanctions on those who fail to meet that obligation,” Magnussen points out.

Guidance and information

Disseminating information and providing guidance to business and industry, consumers, and public authorities on the competition rules is an important task for the Competition Authority.

“That notwithstanding, it is the responsibility of companies to conduct business so as not to violate any of the prohibitions of the Competition Act. The Competition Authority can neither provide exemptions from the Act nor issue binding advance decisions on how it will enforce the Act,” the legal director explains.

Magnussen believes the scope of the information provided by the Competition Authority must be tailored to individual needs. He emphasizes that large corporations with professional advisors will normally be able to ensure that they are complying, and that their interests are protected. Thus, the Competition Authority must generally devote its limited resources to guiding smaller-sized companies, which lack similar resources.

Using new technology to enhance efficiency and simplify procedures

The Norwegian Competition Authority is to be a modern and efficient organization. Consistent with this goal, the Authority has introduced new technology and solutions to enhance efficiency and streamline work procedures for external users and our employees.



Altinn

As of 1 June 2004, lawyers and businesses were able to submit notifications concerning mergers and acquisitions electronically via Altinn – Norway’s public services Internet portal. Altinn allows companies to complete and submit electronic forms to public authorities, including the Norwegian Competition Authority.

Video conferencing

The Competition Authority has begun using video conferencing to conduct daily staff meetings between its Oslo and Bergen offices. Video conferencing cuts down on air travel and accommodations, streamlines personal interaction, and improves communications between the two offices.

New Internet portal

In 2004, the Competition Authority initiated a project to replace its existing intranet and Internet pages. In addition to providing information, the new portal will streamline many of the Authority’s tasks. The portal is intended to simplify and assist both in-

house and external users; it will also be a vehicle for promoting and strengthening competition in Norway.

Mobility

All employees at the Competition Authority’s Bergen office and some Oslo office staff have received portable PCs with mobile communications access, so they can log onto the Authority’s computer network from anywhere.

Nearly 300 merger and acquisition notifications

■ In 2004, the Competition Authority received 292 notifications pursuant to the new Competition Act rules regarding mergers and acquisitions. The figure translates into an average of 37 such notifications a month, since the Act went into effect in May. While the number of notifications appears high, a number of concentrations that were required to submit notification failed to do so in 2004. Of the 292 notifications received by the Authority, 15 were filed electronically via the Altinn service. As of 1 January 2005, it became easier for lawyers and other advisors to submit merger and acquisition notifications on behalf of their clients; this will, hopefully, increase the proportion of submissions via Altinn in 2005.



New Competition Act

■ On 1 May 2004, Norway’s new Competition Act entered into force. The purpose of the Competition Act is to further competition and contribute to efficient use of society’s resources. Consumer interests are to be of particular concern in enforcing the law.

The new Act prohibits cooperation that restricts competition and abuse of a dominant position. The Act introduces a general obligation to submit notification about

mergers and acquisitions and other so-called concentrations. The Act also allows competition authorities to levy significant fines for violations, and to reduce such fines for companies that assist in uncovering violations of the Competition Act. In December 2004, some minor modifications were made to the Competition Act; these amendments entered into force on 1 January 2005.



>PUBLISHING

After operating for many years under exemptions and agreements that restrict competition, Norway's publishing industry must prepare for a new day. The period for which book publishers can set retail prices will be significantly curtailed, and all sales channels will have the same right to discount these fixed prices.





Equalizing competitive conditions for publishers and booksellers

Works of fiction published in Norway have been sold subject to fixed prices at which they must be retailed in both the year of publication and the following calendar year. Bookstores have been unable to compete on the volume's price during this period.

AS of 1 May 2004, no individual exemptions from the Competition Act will be granted to allow for mandatory pricing. Nevertheless, in December 2004, Norway's Ministry of Modernisation granted temporary permission to extend the current publishing industry agreement on book retailing until a new regulation enters into force; it is scheduled to become effective as of 1 May 2005.

In its proposal for regulations governing book retailing, the Norwegian Competition Authority recommends that the fixed-price period be shortened, so that it does not extend beyond 31 March of the year after the year of publication, and runs no longer than nine months after the date of publication. Under the proposal, the parties to the publishing agreement may offer discounts to fixed prices; moreover, such discounts may no longer be restricted to certain distribution channels. Thus, bookstores will be

able to offer the same discounts as those extended to book club members.

If the proposal is adopted, it will mean an end to fixed prices on school books and non-fiction books and an end to bookstores' exclusive rights on selling these books. On this particular point, however, Norway's Ministry of Modernisation has granted a transition period until 30 June 2006 for school books for elementary school, and until 31 December 2005 for other school and non-fiction books.

– In its proposal for regulations governing book retailing, the Norwegian Competition Authority recommends that the fixed-price period be shortened.

“Who will price books?” – an assessment of the Norwegian book market

In April 2004, the Norwegian Competition Authority presented its views on publishing-industry regulations in its report “Who will price books?” In the report, the Authority demonstrates that the book industry agreement of 1998 has severely restricted competition. The Competition Authority writes that the agreement has restricted sales, value creation, and innovation in book publishing and sales. Further, the agreement has not been particularly well suited to achieve the goals set for it, nor overall policy objectives regarding literature, as expressed, for example, in the current national government’s white paper on culture. Thus, the Authority believes the agreement should not be continued in its present form.

In its report, the Competition Authority highlights the following three issues that have made the book industry agreement restrict development and value creation:

- The fixed-price agreement
- The monopoly on school books
- The rules pertaining to book clubs.

The set-price agreement renders bookstores and other distribution channels unable to compete on price, which is generally the most important competitive parameter. They are thus unable to attract customers through particularly efficient operations and correspondingly lower prices.

Consequently, the fixed-price agreement serves to inhibit the development of new and more efficient book distribution channels. Of particular note are Internet-based distribution channels that may result in significantly reduced book retail prices. Such solutions may be especially important in rural areas, where local markets are too small to sustain bookstores.



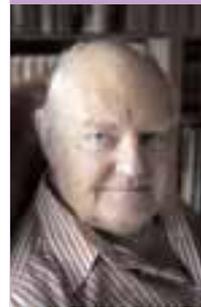
The Competition Authority’s report “Who will price books?” is publication no. 2/2004 (in Norwegian, only) in the Norwegian Competition Authority’s publications series.

Commentary

Per Bang

“On the nightstand” columnist for *Dagens Næringsliv* (Norway’s leading business daily.)

Sleep-inducing books



■ “I keep only books that put me to sleep on my nightstand,” says Per Bang, author of the “On the nightstand” column, featured daily in the Norwegian business newspaper *Dagens Næringsliv*. “Preferably old whodunits that I’ve read before. Suspense ruins a night’s

sleep, but revisiting old joys makes for an easy transition to dreamland. The same holds true for orthodox theology. I simply MUST read before falling asleep. Once, while staying at a small hotel in Sweden, I grabbed the local phone book in utter desperation and let the extended Andersson family anaesthetize me to a sound sleep.”

Although Per Bang is uncertain as to how to achieve the best possible pricing system for books, he feels books are too expensive in Norway.

“On the other hand, although free-market pricing is surely superior, it can lead to the extinction of special-interest books – books that only a very few of us are interested in. Here’s an example: Before Christmas last year a small volume was published in which a handful of experts had written about ‘Dryadens hind,’ by poet Emil Boysson, one of the finest poets of the previous century. Difficult and challenging, the poem is attractive to a limited audience. A pricing regime that makes it impossible to publish a book about this poem does not represent progress. Poetry is hardly a major source of income for publishers or bookstores, yet we must not run the risk that such publications could disappear completely. While we’re on the topic of poetry – wouldn’t it be a good idea if annual reports by all companies and organizations had to include at least one poem? Trams, subway cars, and buses frequently display poems – an excellent idea!” says Per Bang.

“I simply MUST read before falling asleep – once, while staying at a small hotel in Sweden, I grabbed the local phone book in utter desperation.”

Commentary

Solveig Tesdal

Head of the School Student Union of Norway

Schoolbooks cost too much



■ “Our hope is that the new agreement will help bring down the price of school books in a noticeable way. The prices of books used in secondary education have been kept artificially high for too long,” says Solveig Tesdal, who heads the School Student Union of Norway.

The School Student Union of Norway has conducted several studies that show that price increases for school books have outpaced those of the general book market. Price increases for school books have also been higher than the consumer price index.

“Survey findings show that market participants have succeeded in pricing school books at an artificially high level. Now we will see how the rules work in practice,” says Tesdal.

Commentary

Annika Karlsen

Managing Director of Bokkilden.no

A more efficient industry



■ In Annika Karlsen’s opinion, Norway’s major book clubs appear to be in the process of changing from mail order companies to Internet bookstores. “The major book clubs give away books and sell books with discounts via the Internet, while we are

forced to adhere to the fixed-price agreement under the old publishing industry agreement. I find this unjust,” she says. Karlsen expects the proposed changes to the agreement will lead to a more efficient book retail industry, without necessarily cutting down on selection. According to Karlsen, “Consumers will definitely be the winners due to lower prices.”



Food – the story of the small price that grew to be so big

Retail food prices are significantly higher in the Nordic countries than in the rest of Europe. A comparative survey of prices by Eurostat, the EU statistical office, shows that food retail prices in Norway are 55 percent higher than the average retail price of food in Europe. Price levels in Norway are about 25 percent higher than in Denmark and Sweden.

WHY are food prices so high in the Nordic countries, compared with the rest of Europe? This is the question Nordic competition authorities are seeking to answer. To this end, they have appointed a project group called “From farm to table.” As the name indicates, the project will look into the various links in the production chain for foodstuffs, from farmer to consumer. At what stages does the small price grow so big?

Norway’s agricultural sector is strongly

influenced by public regulations designed to achieve overarching agriculture policy objectives. These policy objectives include maintaining farmers’ incomes, preserving the cultural landscape, maintaining biological diversity, and allowing for a dispersed population. The “From farm to table” project accepts these objectives as given framework conditions, and will not focus on competition-enhancing measures that would undermine farm income.

Many will claim that it is impossible to ensure agriculture market competition while

maintaining the current agriculture policies. In the opinion of the Competition Authority, however, competition should be viewed as a means for achieving these policy objectives rather than an obstacle to them. Norwegian consumers would not be the only ones to benefit from greater competition and lower prices. Norwegian farmers would benefit, too; not because they will be exposed to competition, but via greater competition in other links of the value chain. The accompanying illustration portrays how prices are determined for agricultural products.



Commentary

Bent Stiansen
Prominent Norwegian chef



Food shopping ought to be an esthetic pleasure

■ “Norwegian consumers must stop seeking out the cheapest food items. Instead, we should choose quality products, otherwise our lives will be rather drab,” the well-known Norwegian chef Bent Stiansen says.

“Food shopping should be an esthetically pleasing experience. Surveys show that when we buy food in stores overflowing with superb raw materials, we buy more – and more expensive products. I think that is a good thing, because our lives become drab if we always seek out the cheapest possible food,” Stiansen says.

He praises Norgesgruppen in particular for having targeted a broad range of quality products. Overall, he believes that it has become far more pleasant to visit food markets in the past five years.

“The other supermarket chains are following suit, and that’s great! It’s a paradox that in a nation as wealthy as Norway, we spend so little money on food. Moreover, I think stores can do a great deal to teach consumers about food. They do not emphasize having skilled staff behind the meat, seafood, or cheese counters. Typically, these are staffed by students after 4 pm. We can’t expect these youngsters to possess professional expertise. Stores should recognize the importance of staffing for these areas during busy shopping hours, and make sure they have skilled professionals at work, even in the evenings. That would bring the money rolling in,” Stiansen relates.

“When we buy food in stores overflowing with superb raw materials, we buy more – and more expensive products.”

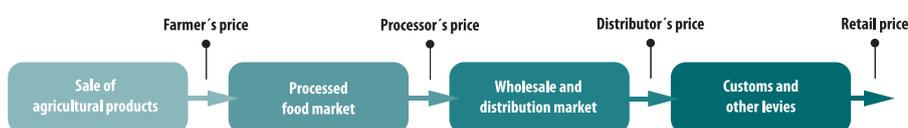
The prices farmers receive for their food-stuffs are determined in annual negotiations between agriculture authorities and farmers’ organizations. Minimum price support is a pillar of this policy. However, before food items reach consumers, prices go up.

Competition in today’s food-processing market is strictly limited. More effective competition in the processing link, from imports or from Norwegian challengers, will put pressure on margins and increase sales. Provided prices to farmers remain unchanged, Norwegian farmers will benefit from lower prices to consumers via increased sales. This is most likely the reasoning behind the statement – estimated as representing the opinion of 50% of Norwegian farmers – that they would like to see more competition to today’s agricultural cooperatives and more private-market players (survey conducted by the Sentio polling bureau in 2004).

Wholesale and retail markets are character-

ized by competition among four umbrella supermarket chains (ICA Norge, Norgesgruppen, Reitangruppen, and Coop), and the recent market entry of Lidl. There is a latent danger that competition among these participants is insufficient, resulting in higher prices and fewer choices for consumers.

The strong purchasing power of these supermarket chains also poses the risk of a restricted product range, since suppliers may well lack adequate means of distributing their products. Furthermore, suppliers that possess market power may consider it advantageous to tie-in retailers so as to make it more difficult for competitors to enter the market. In the longer term, the outcome may be both reduced competition and higher prices. These are issues that will be the subject of analyses by the Norwegian Competition Authority in a recently begun project on competition for supermarket shelf space.



Schematic representation of the various activities that affect consumer prices.

>TELECOM

The Norwegian Competition Authority believes that major benefits will come from enhanced competition in telecom markets. While much has been achieved through deregulation of Norway's telecom sector, several sub-markets are characterized by limited competition, with Telenor as the dominant market participant.



Telecom markets need enhanced competition

In October 2004, Nordic competition authorities presented their report "Telecompetition – Towards a single Nordic market for telecommunications services." Among other findings, the report identified major price differentials among the Nordic countries, and noted that Norway's Telenor charged its fixed telephony-line customers significantly more than the other major Nordic telecommunications suppliers.

PRICE differences may imply limited competition. For example, the report found that it costs 75 percent more to phone from Oslo to Stockholm than from Oslo to Bergen, using a fixed telephone line. For a Norwegian mobile telephone subscriber phoning from Stockholm, phone calls cost 350 percent more than the corresponding call for a Swedish subscriber. A Norwegian subscriber in Denmark must pay 135 percent more for phone calls from his or her mobile phone to a Danish telephone than a Danish subscriber. Variations in prices of this magnitude, in the opinion of the Norwegian Competition Authority, cannot be attributed to cost differences. It appears that much remains to be gained from increased competition for international telephony services, and particularly for those using mobile phones abroad.

The report also shows that Norway is a particularly expensive country for fixed-line telephony compared with the other Nordic countries. Telenor charges fixed fees that are 50 percent higher than what subscribers in Finland, Iceland, and Sweden pay. The differentials are less severe for metered phone usage. An unambiguous picture appears: there's room for lower telephone charges in Norway.

Limited competition in Norway

Until the mobile phone operator NetCom was established in 1993, the Norwegian market did not allow any competitors to Telenor for telephony customers. Thus, historical factors play a key part in explaining Telenor's position in telecommunications

markets. Also, competition largely relies on Telenor's competitors gaining access to Telenor's network, because setting up an infrastructure is costly and not profitable for smaller-sized telecom providers. Consequently, Telenor competitors are largely re-sellers of Telenor products or producers of services that rely on access to the Telenor infrastructure. In both cases, they have a dependence vis-à-vis their main competitor. This dependence significantly restricts market competition.

Potential for price cuts

Telephony services are extremely similar, regardless of service provider. Price is the main competitive parameter for such services. In the Norwegian Competition Authority's opinion, in part based on the joint Nordic report, there is a significant potential for price cuts in the market for telephony services.

Nevertheless, the greatest potential competitive gains lie in infrastructure-based innovation. Operators with their own infrastructures will compete by offering features such as the "broadest broadband," or the best coverage for mobile phone services – in addition to competing on price.

Other significant issues

Three issues in particular may contribute to fiercer competition in telecommunications markets. Most important is to encourage the establishment of alternative infrastructure. In this arena, the Norwegian Competition Authority plays an important role in its merger control. If companies are to establish infrastructures separate from that of Telenor, their success is largely dependent

on two factors: a customer base that is large enough to make infrastructure establishment profitable, and avoiding being bought out by Telenor. Thus, the Authority carefully monitors mergers and acquisitions in the telecom industry.

After infrastructure, the next issue is technological advances. IP telephony and so-called smart mobile telephones that are able to select lower-cost networks in countries away from "home" are examples of innovations that may result in increased competition and lower prices. The impact of new technology remains uncertain, as long as services are provided using established networks.

The third key consideration is the need for both international cooperation and cooperation among a country's various public authorities. An illustrative example is the high prices charged for use of subscribers' mobile telephones when abroad. Norwegian public authorities are able to influence what Swedish mobile phone subscribers pay for using their telephones in Norway through regulations. The high charges Norwegian subscribers pay for using their mobile phones in Sweden is largely a matter for Swedish authorities to deal with.

The vision of the joint Nordic report on telecom markets presented last October, is that Nordic markets should function as a single market. Realization of that vision is a long way off.

Ensuring fair competition is a challenge

“There are many factors to consider in facilitating sound and fair competition in the telecom market. But competition is important both as to the development of products and pricing,” President and CEO of Norway’s Telenor, Jon Fredrik Baksaas says.



IN Baksaas’ opinion the Competition Authority has a difficult and challenging task. “There are no established models for competition in telecom markets that also preserve incentives to invest in infrastructure,” Baksaas says. “We operate in a special market where striking an appropriate balance between economically sensible investments and satisfactory competition is key,” he says.

Telenor has made significant investments in infrastructure in recent years.

“Building a ‘fiber optic highway’ in this country, with so many mountains and long fjords, is an expensive venture,” Baksaas says. “By year-end 2005, ninety percent of Norway’s households will be able to con-

nect to the broadband network. This has not been achieved without cost. And we need to have an adequate return on our investments. It is costly to operate the network, and this is a country with a scattered population,” Baksaas says. He continues, “Naturally, our costs must be reflected in the prices of the products we offer. Our competitors that use the telecom broadband network built by Telenor do not have to carry the costs of similar investments. In its monitoring of the telecommunications market, the Competition Authority needs to consider the whole picture,” Baksaas says.

Commentary

Gunnar Evensen,
Managing Director of UPC Norge

– A bit too restrained

■ “I believe all telecom market participants are expecting more efficient competition in 2005, following market deregulation. As we see it, the Competition Authority has so far been a bit too restrained vis-à-vis telecommunications regulatory authorities,” UPC managing director Gunnar Evensen says.

According to Evensen, “While monitoring and regulation of prices are clearly the responsibilities of telecom authorities, the Norwegian Competition Authority should feel freer to intervene to support competition. A proactive stance should also apply to practices that have been given the go ahead based on telecom rules and regulations.”

Gunnar Evensen believes Norway now is facing a new market situation, as government-owned electric power companies are making major investments in building broadband networks, in competition

with privately held enterprises. Thus, Evensen believes that the Competition Authority should assume an independent role and evaluate how this development will affect private investments and economics in the long run.

“These power market participants already have cost-free infrastructure and rights-of-way derived from their monopoly activities, including transmission line pylons, poles, and underground cable routes. In our opinion, the Competition Authority should focus on ensuring that market competition is not restricted by the exclusion of other participants from these infrastructure or rights-of-way, or via cross-subsidies from power companies’ monopoly activities,” Evensen says. The new Competition Act provides for evaluating competition cases in Norway according to EU legal decisions and practices. In Evensen’s opinion, EU sources should weigh heavily in Competition Authority assessments.

“The telecom market is undergoing rapid change, so the Competition Authority’s ability to make decisions quickly is important to effective market regulation,” Gunnar Evensen points out.

Commentary

Henrik Müller-Hansen
Managing Director of Tele2

Relying on the Competition Authority

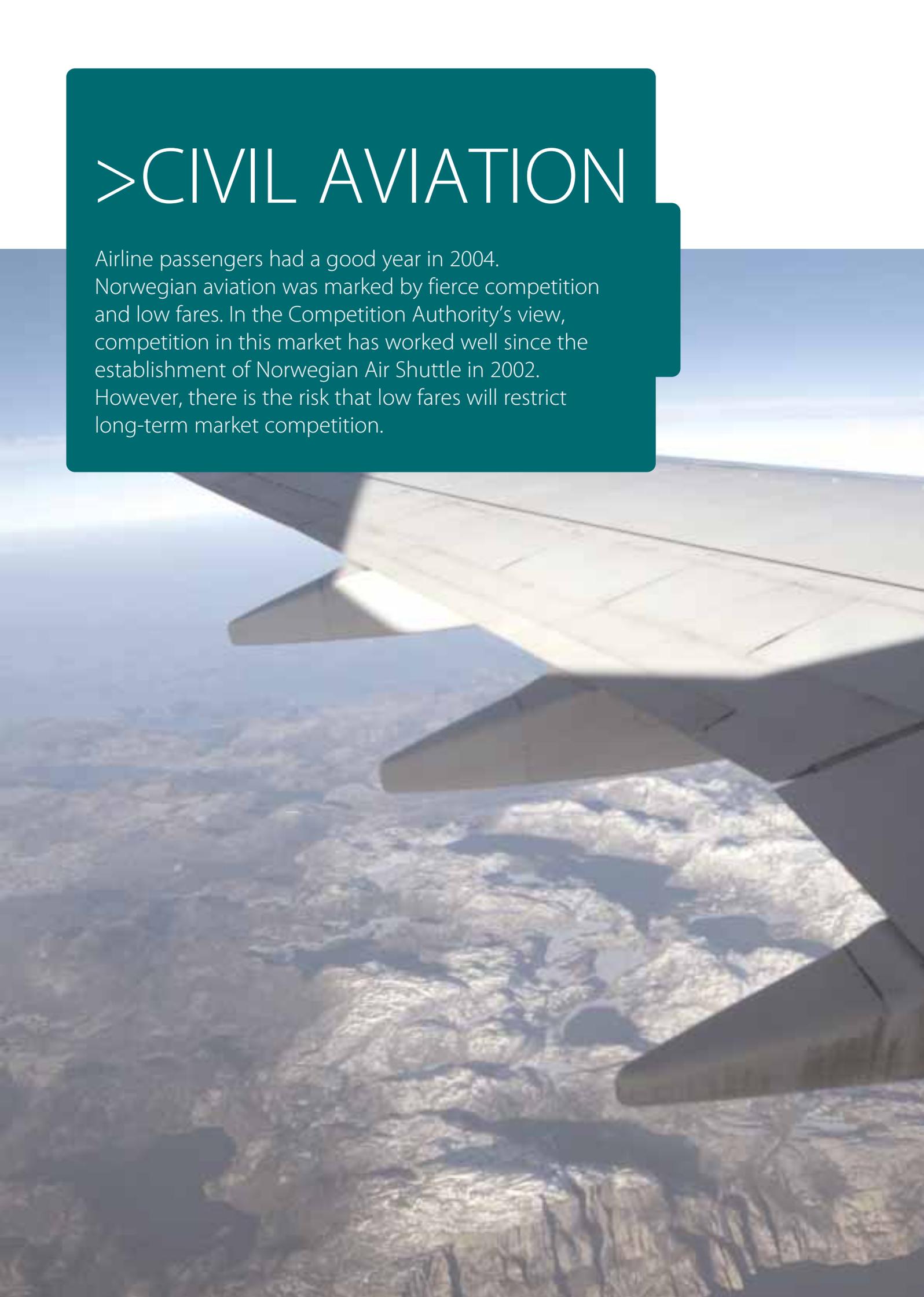
■ “The telecom industry relies heavily on the presence of the Competition Authority, particularly in the area of fixed telephony,” Henrik Müller-Hansen, managing director of Tele2, says.

“In Norway, competition is most limited for fixed telephony, and fiercest in mobile telephony. Intense competition among mobile telephony vendors has contributed to the forging of several innovations. A similar trend may take hold in the market for fixed telephony if competitive conditions enable more participants to compete,” Henrik Müller-Hansen says.

The head of Tele2 has mixed feelings about the Competition Authority’s involvement in the telecom industry. “Initiating and carrying on a dialogue with the Authority is easy. Unfortunately, processing times are often unreasonably long and the decisions rendered are often not concrete enough,” he says.

> CIVIL AVIATION

Airline passengers had a good year in 2004. Norwegian aviation was marked by fierce competition and low fares. In the Competition Authority's view, competition in this market has worked well since the establishment of Norwegian Air Shuttle in 2002. However, there is the risk that low fares will restrict long-term market competition.





FOLLOWING a period of monopoly and high fares, competition returned to the Norwegian domestic aviation markets in 2002. In the spring of that year, several events combined to trigger a steep decline in fares. The Competition Authority banned frequent flier bonus points on domestic air travel. Also, the government's per-passenger charge was abolished in August. Last but not least, in April of that year, it was announced that Norwegian Air Shuttle would begin operating domestic flights in Norway. Currently, Norwegian Air Shuttle operates 12 domestic and several international routes. The market entry of Norwegian Air Shuttle has resulted in markedly lower air fares both on domestic routes and international routes to and from Norway.

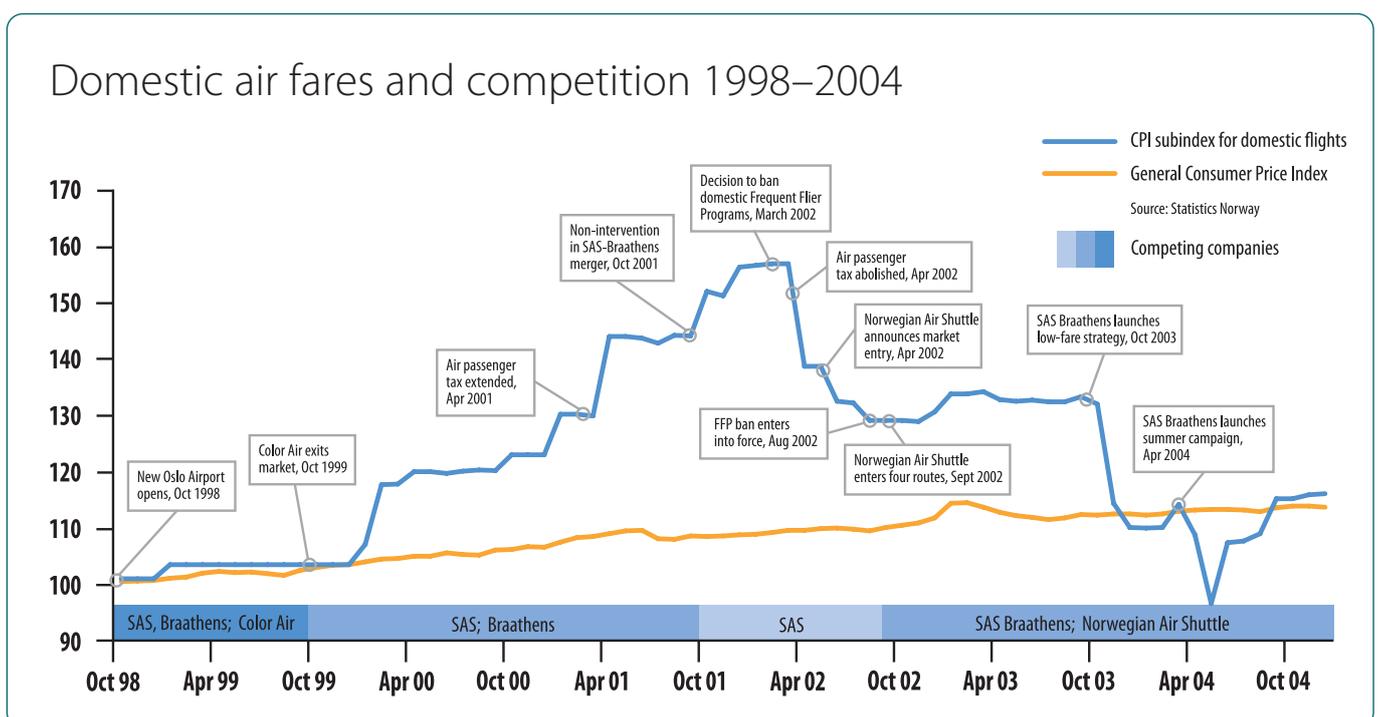
Following initial fare cuts, fares remained relatively stable until October 2003, when SAS Braathens cut fares sharply. In its 2004 summer schedule, SAS Braathens announced further fare cuts.

Lower fares through enhanced competition

Air fares development (see chart) shows that the airline industry features effective competition. From the time Norwegian Air Shuttle was established in 2002 through

Cheaper air fares

Enhanced competition has made domestic air travel less expensive. In 2004, the Competition Authority intensified its monitoring of this market.



May 2004, fares for domestic air travel fell by approximately 40 percent. Thereafter fares rose somewhat, in part due to higher oil prices.

The Competition Act prohibits abuse of dominant market positions. Such abuse may consist of lowering prices to such levels that they do not cover costs. A company may find such conduct rational if it will be able to recapture its costs later on by becoming a monopolist. Such market conduct does not constitute sound competition and may lead to the most efficient competitor being forced out of the market, to the detriment of consumers and market competition.

In 2004, the Competition Authority was concerned with the issue of the dominant market participant lowering fares so as to force a competitor to leave the domestic aviation market. The Authority significantly intensified its monitoring of this market.

As early as October 2003, the Competition Authority ordered SAS Braathens to submit monthly reports on costs, revenues, and traffic data. In March 2004, Norwegian School of Economics and Business Administration professors Lars Sørsgard (appointed as Competition Authority's Chief Economist in September 2004) and Frode Steen submitted their report (Predatory conduct in Norwegian

aviation?), which had been commissioned by the Authority. The report contained a survey of airline fares in Norway leading up to October 2003 and gave important input regarding uncovering under-pricing.

Securing evidence at SAS

Following SAS Braathens' announcement of its fare schedule for the summer of 2004, the Norwegian Competition Authority further intensified its monitoring of Norway's airlines. To confirm or vitiate the assumption that SAS Braathens had the intention of forcing its competitors out of the market, the Authority secured evidence from the company's premises at Fornebu in Oslo. Documents and electronic data and material were seized.

Partly based on material from the evidence thus secured, the Competition Authority notified SAS Braathens on 8 December that it was considering issuing a fine for competition-restrictive market conduct on the route between the Norwegian cities of Oslo and Haugesund in May and June 2004. In the opinion of the Competition Authority, SAS Braathens' under-pricing contributed to its competitor Coast Air withdrawing its traffic on this route in June 2004.

Commentary

Inge Sundfør
Managing Director of Coast Air

High expectations for new Competition Act

■ "The SAS Braathens group, along with Widerøe, have a near monopoly on Norwegian domestic routes. If the Competition Act hadn't been made stricter last year, the long-term survival of our company and other smaller-sized firms would have been at risk," Coast Air's Managing Director Inge Sundfør says.

Mr. Sundfør has a keen interest in seeing how the Competition Authority will enforce the new Act. He interprets the fact that Norway's competition law was changed as an indication of willingness on the part of public authorities to sustain multiple suppliers in the civil aviation market.

At present, Coast Air operates five routes and has 71 employees. The company aims to grow by targeting the development of charter, niche, and licensed routes.

"We are seeking to grow our business and carve out a natural place in civil aviation that can generate positive earnings. But such growth relies on follow-up by public authorities and the SAS Braathens group abstaining from using its strength to squeeze us and other smaller-scale participants out of the market," Sundfør says.

Coast Air's chief doesn't believe that today's minor players in the Norwegian market can grow to become a direct threat to SAS Braathens: "I don't even think any of them are aiming to do so. The goal instead must be to ensure a varied offer that ensures an attractive network of routes at reasonable prices," Sundfør says.

Commentary

Per-Arne Villadsen
Managing Director of Berg-Hansen
travel agency

"More participants should be able to skim the cream."



■ "On the attractive routes, small companies must also be able to skim the cream off the top. That is why it is unfortunate that the major airlines make competition impossible by dumping fares", managing

director of Berg-Hansen travel agency Per-Arne Villadsen says.

According to Villadsen, a key task for the Competition Authority is to ensure that the smaller-sized companies do not end up competing only for less attractive routes.

"The establishment of low-fare airlines in the past decade has benefited consumers. It has led to lower air fares and more non-stop flights," he says.

Nevertheless, Villadsen questions the viability of today's air fares. He considers current fare levels too low to ensure sufficient long-term competition and an adequate supply of products. Villadsen believes that the market will be self-regulating in this respect, without the necessity of intervention by the Competition Authority.

"I believe market competition right now in the Norwegian civil aviation market is as good as it can be, with one large and one smaller company. It is unrealistic to think that the market can accommodate two equal-sized companies. In recent years, we have had several new entries in the domestic aviation market. The Competition Authority has an important responsibility to make sure that newcomers are not squeezed out by inappropriate means," Villadsen says.

"The establishment of low-fare airlines in the past decade has benefited consumers. It has led to lower air fares and more non-stop flights."



Potential savings for car owners

Cars and their upkeep are among the major expenditures for Norwegian households. Statistics Norway (Norway's central bureau of statistics) reports that, on average, Norwegian households spend over 14 percent of their annual budgets on their cars. Thus, healthy competition in the automotive trade industry is important.

THE Statistics Norway survey shows that in the period from 2001 to 2003, Norwegian households spent, on average, over NOK 23,000 annually on purchasing cars and nearly NOK 19,000 on car operation and maintenance. That adds up to an annual expense of NOK 42,000 or about 14 percent of households' annual expenditures.

Norway's automotive trade (cars and car parts) had 2002 operating revenues of NOK 67 billion, which corresponds to about ten percent of all retail trade. Motor vehicle maintenance and repair generated NOK 31 billion in operating revenues in 2002. Historically, car manufacturers have largely determined the terms and conditions for automobile sales and the related after-sale market for repairs and car parts. Only limited room remained for independent market participants, who might have contributed innovative ideas and business practices.

Major savings

A May 2004 survey conducted by the EU Commission shows that there are great opportunities for savings for European consumers who purchase cars in other EEA countries. For example, a Norwegian car buyer could save several tens of thousands of NOK by importing a car from Denmark. Many consumers are not aware of the option of purchasing motor vehicles in other European countries; others fear invalidating factory warranties. However, such guarantees apply across Europe; any car manufacturer's dealership must provide guaranteed repairs

without extra cost to customers.

Automobile repair shops must inform customers of their price schedules. Nevertheless, the Competition Authority has revealed that only a small fraction of them display satisfactory price schedules, which must state hourly charges for common services and be placed in a readily visible location. Working with the industry, the Authority has prepared a standard price schedule for car repairs associated with car maintenance, repairs (including accidents), and painting. More detailed information about these price lists is available at the

– Automobile repair shops are obliged to inform their customers of their price schedules. Nevertheless, the Competition Authority has revealed that only a small fraction of them display satisfactory price schedules, which must state hourly charges for common services and be placed in a readily visible location.



Tip Request a price list

- Car repair shops must have price lists for common car maintenance and repairs, paint jobs, and body work.
- Such lists must feature charges for at least 11-19 typical services.
- Prices are to be listed for at least three different car models.
- Hourly charges and methods used to calculate time spent must be posted.
- Prices listed are to be inclusive of VAT.

Competition Authority's website. When Norway's new Competition Act went into effect, the rules and regulations governing mandatory posting of price schedules were incorporated into Norwegian marketing legislation, and the responsibility for monitoring compliance with the regulations was transferred to Norway's Consumer Ombudsman.

Increased competition

On 1 October 2002, a revised group exemption covering automotive trade competition went into effect. The new group exemption, to a greater extent than the previous exemption, encourages competition in the after-sales market for cars, both among participants in established car dealerships and between dealerships and independent suppliers. For example, car repair workshops not affiliated with a car dealership will be ensured access to spare parts, technical data, tools, and equipment on a non-discriminatory basis.

Also, car manufacturers are no longer permitted to hinder independent parts manufacturers from selling to independent distributors, non-brand-name car workshops, or consumers. Only 20 percent of so-called original car parts are produced by car manufacturers.

The Competition Authority has made detailed information on the group exemption available on its website. It is important to raise awareness among car owners that all car repair shops are allowed to perform periodic service on cars and that all car owners are free to purchase car parts for use in repairs not performed by the seller of the vehicle. The webpages also feature an overview, prepared by the Competition Authority in cooperation with the Consumer Council of Norway and Norway's Consumer Ombudsman, that answers frequently asked questions on passenger car purchases and repair.

Commentary

Jonny Skrivarhaug
General Manager, GS Bildeler

More freedom for customers



■ "The group exemption from the competition legislation extended to the car industry ensures consumers a comprehensive nationwide distribution network. This applies to all major car brands and provides considerably

lower prices than in the past," says general manager Johnny Skrivarhaug of GS Bildeler, a mail-order spare parts dealer. He points out that the exemption gives customers far greater freedom than in the past to choose among retailers. "In contrast to how it used to be, customers now decide whether they would like to purchase new, original replacement parts from a car manufacturer or dealership or, for example, from a mail-order house such as ours."

In 2004, GS Bildeler sold new BMW spare parts at a total of about NOK 50 million, up NOK 10 million from the previous year. Skrivarhaug believes his firm maintains one of the largest parts inventories for Germany's BMW in Norway.

Skrivarhaug has no doubts about why his company is successful. "We offer significantly lower prices than brand name dealers. On average, our prices are about 30 percent lower than the cheapest BMW dealers. Without the new legislation, customers would invariably have to use more expensive spare parts," he says.

About 40 percent of GS Bildeler's sales are to individuals, the remaining 60 percent to regular car repair shops. "The new legislation allows car dealerships to buy up to 70 percent of their replacement parts from suppliers other than their own importers. When brand name dealers gain access to cheaper spare parts, they may be able to offer their customers lower prices as well," Skrivarhaug says.

"In contrast to how it used to be, customers now decide whether they would like to purchase new, original replacement parts from a car manufacturer or dealership or, for example, from a mail-order house such as ours."



Recycling markets need enhanced competition

Collection and recycling of discarded products and packaging have become an industry of major financial as well as socioeconomic significance. Accordingly, the Norwegian Competition Authority has analyzed governmental regulations pertaining to the various product recycling markets and competition within these markets.

A key principle in Norway’s environmental policy is that those who pollute will be responsible for the environmental costs associated with pollution by their products or materials. Norway’s Ministry of the Environment has entered into agreements with a number of industry associations for expanded producer responsibility, under which business and industry assume responsibility for collecting and recycling waste resulting from their own products. Such agreements are in force for packaging, electrical and electronic products, refrigeration gases, batteries with environmentally harmful contents, cars, and tires. Pursuant to these agreements, participants in various industries have established collection and recycling companies to serve entire industries.

In reality, each recycling company has a monopoly for collection and recycling of products in its industry. Today’s recycling systems – featuring industry-wide recycling companies – raise concerns about market competition:

- Insufficient competition results in recycling systems that are expensive for society and for consumers. Recycling companies determine the prices for their services, often referred to as “environmental fees.” These fees cover the recycling companies’ expenses. Market participants that are always able to recover their costs have few incentives to operate at lowest cost. Thus, the current approach in Norway entails the risk that recycling companies’ services are unnecessarily expensive.

- Norway’s current recycling systems can also facilitate coordinated market conduct in which participants raise the price of their products by an amount that corresponds to the “environmental fee.” Thus, all costs associated with the recycling system are passed on to consumers, instead of costs being shared by consumers and producers, as is common for other increased costs.

- Several recycling companies have expanded their activities into fields beyond collection and recycling, such as providing information services about the participating companies’ environmental efforts. Coordination of marketing to consumers may lead to reduced competition to offer the most environmentally friendly products.

- The boards of directors of most recycling companies comprise only representatives of the company’s owners and recycling system participants. This way of structuring recycling companies is associated with the risk that exchange of information among members can negatively impact market competition.

- Comprehensive industry-wide cooperation raises entry barriers for new market participants. To ensure effective market competition, it is vital that there are few or low barriers to market entry.

- The monopoly positions enjoyed by recycling companies pose a risk of abuse of dominant market position vis-à-vis subcontractors, which in a longer-term perspective may result in even greater market concentration in recycling markets.

Greater use of deposits



“Environmental authorities should consider more extensive use of deposits for products that are to be collected for reuse or recycling,” says Head of Section Birgit Løyland of the Norwegian Competition Authority.

“Deposits should be used appropriately; for example, they could be applied to mobile telephones and other smaller electrical and electronic products that have proven difficult to collect. Such refundable fees, as suggested by the Competition Authority, would give market participants incentives both to compete for discarded products and to recycle them at the lowest possible costs. Further, such deposit systems would motivate consumers to return discarded products,” Løyland points out.

The Competition Authority recommends establishing recycling systems which feature repayment of environmental fees to those who recycle and/or properly dispose of products and materials according to Norway’s environmental rules and regulations.

Today’s product environmental fee, which is the compensation payable to industry-based recycling companies, indicates a questionable cooperation among market participants for the purpose of determining a component of a product’s price. Pursuant to the Competition Act, the Norwegian Competition Authority may not issue exemptions to the prohibition against such price cooperation. Thus, the Authority has provided guidance as to the Competition Act to the recycling companies via its September 2004 report, “Evaluation of competition in Norway’s systems for product collection and recycling,” and via direct contact with individual recycling companies.



Getting more health for every crown spent

In 2004, the Norwegian Competition Authority made the healthcare sector one of its target areas. The objective is to improve the sector's economic efficiency.

“**H**EALTHCARE expenses comprise 5 percent of Norway's GDP, and the proportion is rising steadily,” says Jostein Skaar, department director at the Norwegian Competition Authority. “Expenses of this magnitude require that resources are used as efficiently as possible, so that we get the greatest possible value for every Norwegian crown we spend on healthcare.”

The Competition Authority's role

Because the healthcare sector is a new focus area for the Competition Authority, several lectures were held and articles published in 2004 to acquaint healthcare professionals and the public with the Authority's responsibilities regarding the sector. In June, the Authority organized a conference on financial aspects of healthcare in Bergen.

“Among the areas the Competition Authority will focus on is ensuring that

private healthcare providers compete on terms and conditions that in so far as possible are identical to those of public sector providers. Without such equal treatment, it is difficult to see how private market participants can constitute a realistic alternative and thus provide a competitive correction to public healthcare service production,” Skaar points out.

The bulk of Norway's hospital sector is both owned and operated by the state. Under state ownership, hospitals have been organized into five healthcare regions. Regional healthcare organizations have dual roles that affect equal treatment of public and private healthcare services. They own local healthcare providers and they are responsible for providing the population in their regions with healthcare services. That mandated responsibility to provide care is satisfied either through production

– Healthcare expenses comprise 5 percent of Norway's GDP, and the proportion is rising steadily. Expenses of this magnitude require that resources are used as efficiently as possible, so that we get the highest possible value for every kroner we spend on healthcare.

of healthcare services or by purchasing healthcare services from suppliers in the private market. Skaar points out that this arrangement casts doubt on whether regional healthcare services really want the competition offered by private market suppliers.

Major pharmaceuticals market

The Norwegian market for pharmaceuticals is significant. When patents for proprietary pharmaceuticals expire, other manufacturers are free to produce generic versions of those drugs using identical processes and materials. The Norwegian market for generics amounted to approximately NOK 2 billion in 2003; the market share of generic pharmaceuticals is rising.

“The introduction of generic pharmaceuticals facilitates price cuts. In 2005, Norway introduced a new regulatory regime for generic drugs. The model selected offers lower potential savings than other models that have been under consideration. Figures from Norway's Ministry of Health and Care Services show that the model recommended by the Norwegian Competition Authority offered NOK 290 million greater projected savings than the model that was adopted. Thus, we will monitor developments in this market carefully,” Skaar comments.



“It is important that public and private sector healthcare providers are offered the same competitive terms, to the extent possible,” says Jostein Skaar, Competition Authority market monitoring department director.

The Authority's international activities benefit Norwegian companies

In recent years, European competition rules have undergone comprehensive harmonization. It is becoming easier for Norwegian businesses to compete in the EEA area because they are increasingly able to relate to rules and regulations that are the same across most European countries.

IMPROVED predictability and more streamlined processing of competition matters by public authorities also help facilitate transparency, and rules and regulations have become more easily accessible to Norwegian businesses operating in the EEA market.

"It has become easier for Norwegian companies to keep abreast of the competition rules and regulations in force in other countries. Issues are also increasingly subjected to the same standards by competition authorities in different countries," says Vera Holst Eckbo, the Norwegian Competition Authority's International Coordinator.

The importance of international cooperation

Norway is required to participate in international cooperation, for example in the EEA. Because of globalization and the fact that Norway is a small country that is not an EU member state, we depend on international cooperation to efficiently enforce competition rules. Eckbo finds that this issue has become particularly important following the expansion of the EU.

The EEA offers several fora for cooperation. Eckbo says that the Norwegian Competition Authority works closely with the official channels in Brussels, including the European Commission, the EFTA Surveillance Authority, the Norwegian Delegation to the EU, the EFTA Secretariat, and national government authorities.

"Participation in international networks has become increasingly important. The Norwegian Competition Authority participates in European Competition Authorities (ECA), International Competition Network (ICN), working groups under the auspices of the European Competition Network (ECN), and in the international research project entitled Competition, Contents and Broadband for the Internet in Europe, under the aus-

pices of the EU Commission," Eckbo explains. "It is important that Norwegian competition authorities are represented in such fora. This is where decisions are made and guidelines adopted that affect Norwegian businesses that have activities in the EEA area. Through the participation of the Norwegian Competition Authority, we are familiar with ongoing discussions, guidelines being adopted, and last but not least, we are able to influence outcomes," Eckbo says.

Common rules

To illustrate her point Eckbo refers to the recently adopted Norwegian Competition Act, which features extensive harmonization with EU and EEA rules and regulations and reflects internationally recognized competition policies. Most countries in the EEA have come a long way regarding harmonizing their national rules and regulations with those of the EU/EEA. Eckbo believes market participants will benefit from not having to comply with varying regulations.

Another example is the EU's new rules for enforcing the prohibitions against cooperation and abuse of dominant market position that may restrict competition (the so-called modernization reform) that entered into force in 2004. An important aspect of this reform is that all national competition authorities may enforce the prohibitions of the EU rules and that they may cooperate in specific cases.

"In Norway we have been concerned with achieving EFTA members' participation in such cooperation. However, so far this has not become possible. Among the consequences is that Norwegian competition authorities are only able to cooperate to a limited extent with their Swedish and Danish counterparts on cartel cases or issues involving abuse of dominant market position," Eckbo observes.

She adds that work on the modernization

reform has been complex and the most demanding EEA-related task the Authority has had since the EEA agreement was concluded.



Vera Holst Eckbo, the Norwegian Competition Authority's International Coordinator

Assistance in European cases

The Norwegian Competition Authority has assisted the EFTA Surveillance Authority in two cases involving the securing of evidence for possible violations of the competition rules of the EEA Agreement. In May 2004, the EFTA Surveillance Authority secured evidence from Norske Skog in cooperation with the European Commission. The purpose was to secure evidence concerning cooperation that may restrict competition between producers of publication-grade paper and purchasers of recycled paper. In June, evidence was secured from Posten Norge AS (Norway Post). The issue in this case involved the market for commercial transportation of parcels from corporate customers to consumers.

Pulse2004

The following is a selection of cases handled by the Norwegian Competition Authority in 2004. These cases were partly processed under Norway's Competition Act of 1993, partly under the Competition Act of 2004, which entered into force in May 2004.

Cases handled by the Competition Authority

	2002	2003	2004
INTERVENTION AGAINST MERGERS AND ACQUISITIONS	3	4	5
INTERVENTION AGAINST ANTI-COMPETITIVE PRACTICES	6	5	4
REPORTED FOR PROSECUTION	4	1	1
EXEMPTION FROM THE ACT'S PROHIBITIONS REFUSED	8	2	1
EXEMPTION FROM THE ACT'S PROHIBITIONS GRANTED	63	37	20
IDENTIFICATION OF PUBLIC REGULATIONS DETRIMENTAL TO COMPETITION	14	17	10
HEARING SUBMISSIONS OF SIGNIFICANCE	103	96	81

MERGERS AND ACQUISITIONS



Prohibited acquisition in kiosk goods distribution

■ In April 2004, the Competition Authority prohibited NorgesGruppen's wholesale company, Joh-System AS, from acquiring its competitor Engrospartner AS. Engrospartner is Reitangruppen's wholesale goods distributor to convenience stores – kiosks and gas stations – across Norway. The aggregate market share of the two companies would have been 99 percent. The Authority believed the proposed acquisition would have resulted in higher prices and significantly reduced market competition. *2 April 2004*

NorBetong ordered to sell two facilities

■ In March 2004, the Competition Authority approved the NorBetong AS acquisition of the ready-mix concrete businesses of NCC located in Oslo, Vestfold, and Telemark counties. Because ready-mixed concrete is a perish-

able product associated with high transportation costs, markets in this industry are local. In its assessment, the Authority established that competition would deteriorate as a result of the acquisition, particularly in Vestfold and southern Telemark. Thus, the Authority ordered NorBetong to sell two of its ready-mix concrete plants: one plant is located in Vestfold county and the other in Telemark county. *31 March 2004*

Ministry of Modernisation approves acquisition of electric heating unit manufacturer

■ Norway's Ministry of Modernisation overruled the Competition Authority's decision and approved the acquisition of Siemens Electrical Heating (now Dimplex AS) by Nobø Electro AS. The Authority's decision was based on concern for market competition. The Ministry, however, found that the acquisition would not have significant negative effects on competition. The Ministry's decision also emphasized Nobø's export-market potential and promoting industrial development in the counties of Trøndelag. *26 October 2004*

Plumbing and building supplier accepts commitments

■ The Norwegian Competition Authority ordered Ahlsell to sell three local departments as a condition for Ahlsell's acquisition of Bergens Rørhandel and Stavanger Rørhandel. The Authority acted to ameliorate restriction of competition in wholesale mar-

kets for heating, ventilation and sanitary equipment, and water and sewage products. Ahlsell accepted the conditions. *4 October 2004*



Conditional approval of acquisition of ticket seller

■ Ticketmaster was ordered to remove exclusivity clauses in its contracts as a condition for approval of the acquisition of Ticnet AS. Ticketmaster had already acquired Billettservice AS. The company is a major player in the market for advance booking of tickets for cultural and sporting events. The requirement allows for the market entry of new companies and for established smaller-sized companies to increase their market shares. Ticketmaster appealed the Competition Authority's decision in December 2004. *23 November 2004*

ANTI-COMPETITIVE PRACTICES

No more loyalty rebates on cheese

■ Tine BA, the leading Norwegian producer of dairy products, is no longer allowed to offer loyalty rebates to industrial customers that purchase Tine's semi-soft white cheeses for making processed cheese, pizza, and baguette products. Tine is permitted to offer lower prices or volume rebates; however, they must be associated with individual deliveries. The Competition Authority also imposed a reporting obligation in order to ensure that Tine does not introduce any competition-inhibiting exclusivity requirements. Such terms can bind customers to a particular vendor, as do loyalty rebates. *2 March 2004*

Prohibition against pharmacies' exclusivity agreements

■ The Competition Authority has prohibited pharmacies in Norway from having agreements that prevent the sale of nose sprays and analgesics through alternative sales channels, such as retail food stores. At the time of the Authority's intervention, sales

Pulse2004

channels other than pharmacies had been allowed to sell non-prescription pharmaceuticals. Nevertheless, the Authority chose to prohibit such exclusivity agreements as a preventive measure to ensure that the industry does not reintroduce them. If pharmacies were to have an exclusive right on selling well known, brand name non-prescription pharmaceuticals, that status would restrict competition and hinder market entry of alternative sales outlets. *26 April 2004*

Bans fee favoring own real estate broker

■ The Competition Authority prohibited Bodø Boligbyggelag's charging higher fees from home sellers who use real estate brokers other than the brokerage owned by the housing coop. Bodø Boligbyggelag annually sells about 400 homes and previously had 80 percent of the market for sale of housing coop shares in the housing cooperatives associated with Bodø Boligbyggelag. The coop charged a NOK 5,788 fee for settling matters of preemptive purchase rights; sellers who chose external real estate brokers had to pay an additional NOK 7,235. This surcharge made choosing a brokerage service other than Bodø Boligbyggelag disadvantageous. *3 March 2004*



Intervention against TrioVing

■ TrioVing is the dominant supplier in the Norwegian market for key and lock systems. Most lock systems in use in Norway are manufactured by TrioVing and delivered or maintained by dealers associated with TrioVing. To improve market competition, the Competition Authority ordered TrioVing to change its rebate programs so it does not discriminate against dealers outside the TrioVing sphere or dealers who opt to stock lock systems from alternative vendors. To ensure that all locksmiths are able to upgrade and maintain lock systems, TrioVing is prohibited from unduly restricting access to lock cylinder codes. *3 May 2004*

Enhanced competition in laundering commercial linens

■ As of 1 January 2005, the laundry businesses in the nationwide franchise chain RiksRent Franchise AS may no longer cooperate on laundering tablecloths, bedding, and napkins for corporate customers. RiksRent Franchise comprises 21 laundries across Norway and has achieved a dominant position in the market for laundering and rental of tablecloths, bedding, and napkins to corporate customers in Norway. Thus, there is no basis to extend the permit to cooperate on pricing originally granted by the Competition Authority in 1998. The decision sharpens competition in the market for laundering commercial linens. *1 April 2004*

INVESTIGATIONS



Dismissal of proceedings against tire importer

■ In February 2004, the Competition Authority reported a Norwegian importer of car tires for prosecution for illegally influencing prices. The matter was settled through a dismissal of proceedings. Prosecuting authorities established that a punishable violation had occurred; thus, although they were in accord with the Authority's determination that the Competition Act had been violated, they chose not to pursue the issue further. *1 December 2004*

Multimillion lawsuit against four transportation companies

The Competition Authority filed a NOK 10 million lawsuit against Norway's four largest cargo transportation companies in 2004. The lawsuit was commenced because Linjegods, Nor-Cargo, Tollpost Globe, and Danzas ASG Eurocargo refused to pay fines imposed by the Authority. The fines were issued for illegal cooperation on pallet charges. *25 June 2004*

HEARINGS AND NOTICES ON ISSUES THAT PROMOTE COMPETITION

Recommends cutting mortgage registration fee to NOK 400

■ In August 2004, the Competition Authority pointed out that by reducing the public registration fee on home mortgages to about NOK 400, competition in the market for loans to private customers would be strengthened. High registration fees often make it unprofitable to switch lenders, thus reducing market competition. Consequently, the Authority submitted a request to Norway's Ministry of Justice and the Police to consider reducing the fee. As of 1 July 2004, the fee was raised from NOK 1,850 to NOK 2,112. Moreover, the Authority's proposal was not included in the 2005 national budget. *17 August 2004*

Requests change in pricing policy by alarm service

■ The Competition Authority has proposed that the 110-Telemark alarm service introduce separate pricing of its fire alarm and personal safety alarm services. 110-Telemark, a cooperation among municipalities in southern Telemark county, provides legally mandated fire alarm services as well as safety alarm services; the latter are exposed to competition. Currently, the two services carry a single charge; therefore Telemark municipalities must pay the same amount whether or not they opt to make use of 110-Telemark personal safety alarm services. *24 November 2004*

Regional airline routes need rules promoting competition

■ Easing rules governing aircraft size in the granting of domestic routes, and cutting down the size of designated regions would make it easier for smaller airlines to successfully bid on routes, in the opinion of the Competition Authority. Accordingly, the Authority asked Norway's Ministry of Transport and Communications to facilitate the participation of more companies in allocation bidding rounds for routes subject to public service obligations. *13 August 2004*

Local bus policy must ensure competition

■ The way local bus traffic in Aust-Agder county is organized provides a competitive advantage to the bus operator Nettbuss on the Oslo-Kristiansand express bus route. Thus, the Competition Authority asked the Aust-Agder county administration to organize local public transportation in a manner that furthers competition. *24 February 2004*



Relocating to the capital of western Norway

Bergen is famous for its drum corps. Young, uniformed drummer girls from Lungegaardens Buekorps in formation welcomed the Competition Authority to its future headquarters in the venerable Telegraph building in the city center. The occasion was the official opening of the Competition Authority's new offices in Norway's second largest city on 1 June 2004. The pace of relocation from the Authority's Oslo headquarters will increase during 2005; the move to Bergen will be completed in the autumn of 2006.

EVER since its establishment in 1917, the National Price Directorate has been headquartered in Oslo. In 1936, the then Trust Control Office moved into a new building at Hieronymus Heyerdahls gate 1, next to Oslo City Hall. Ever since, the Authority has operated from these offices, although its name changed to the Price Directorate and later to the Norwegian Competition Authority.

In accordance with the historic 6 June 2003 decision of Stortinget (Norway's national parliament) to relocate several government authorities, all units of the Competition Authority will relocate to Bergen by year-end 2006. By the spring of 2004, several employees were working from temporary offices at Strandgaten 209 in Bergen, where the Authority had a substantial regional office until 2001.

After having assessed alternative premises, the Authority signed an agreement in April 2004 for the rental of about 2,800 square meters of office space in the center of Bergen in a building locally referred to as the Telegraph building. Built in 1927, it was completely rehabilitated in 2000-2002. Initially, the Authority will rent only the second floor of the building, but it will eventually also occupy the first floor.

At the time of the 1 June 2004 official inauguration of the Bergen office, fewer than ten full-time staff were associated with the new department. By year-end, the number of employees had reached 25. In the autumn of 2005, at least 50 of the Authority's approximately 110 employees will be working at the Bergen office.

In recent years, the Competition Authority processed ordinary cases in either of two market departments. Upon the open-

The Norwegian Competition Authority celebrates its tenth anniversary

Anniversary highlights included publication of a commemorative book and four conferences.

- Anniversary seminar, Oslo, 3 November 2004
- Monitoring market power in the power market, Oslo, 7 September 2004
- Conference on healthcare finances: Efficient resource utilization in the healthcare sector – is competition the answer? Bergen, 2 June 2004
- Conference on competition legislation 2004: Abuse of dominant market position – new Competition Act, new challenges, Oslo, 19 March 2004

– During the first half of 2005, the two Oslo-based market departments will be merged into a single unit, and there will be a gradual transfer of markets and functions from Oslo to Bergen.

ing of the Bergen “bridgehead,” a third market department was established there, which now handles issues relating to pharmaceuticals, healthcare services, veterinary activities, construction materials and services, and fisheries.

During the first half of 2005, the two Oslo-based market departments will be merged into a single unit, and there will be a gradual transfer of markets and functions from Oslo to Bergen. Part of the Authority’s investigation department will relocate to Bergen in the second half of the year, along with some administrative staff and support units, such as archiving, central switchboard, IT services, accounting/finance, and information.

The Director General has appointed a management team and a project team which will complete their work by Easter 2005 on a new organizational model for the Competition Authority after its relocation to Bergen.

Although the restructuring process has been demanding, it has proceeded as planned. A great deal of effort has been expended on maintaining high professional standards and solid productivity in Oslo, to meet Parliament’s expectations. The Authority has employed various technical and financial measures to ensure a good work environment and keep core expertise as long as possible.

Only a small proportion of Oslo-based staff employed prior to the Government’s

decision to relocate public surveillance bodies from Norway’s capital have agreed to move to Bergen. Thus, in parallel with the scaling down of activities in Oslo, the Authority is hiring staff in Bergen.

Overarching Competition Authority objectives are to retain as many employees as possible and to facilitate new job opportunities for those who choose to leave the organization. Staff hired after Parliament’s decision to relocate the Authority are required to relocate to Bergen. In addition to top management, 28 employees working in Oslo have been identified as having “critical expertise.” These are individuals who would be difficult to replace during our restructuring phase and who are particularly important to continuity of service and transferring know-how. They have been offered study agreements or temporarily higher salaries, and in some instances permanent changes in job responsibilities and salaries. Among current employees, the largest group is called priority job applicants; they have been offered assistance in finding new employment and opportunities for professional development, among other measures.

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Rewarding best master’s theses

■ **THESIS AWARDS:** The Competition Authority introduced an annual prize for master’s level students to mark the Authority’s tenth anniversary in 2004. Each academic year, the author of the best master’s thesis covering competition law and competition-related economic issues will receive a NOK 15,000 award; the runner-up will receive NOK 10,000.

■ **COMPETITION FORUMS:** The Competition Authority values communication among professionals in fields

relating to competition and encourages contact between various professional and research groups. Bi-monthly luncheon seminars for lawyers interested in competition legislation were started in the autumn of 2004. Monthly seminars on economic issues relating to competition began in January 2005. Both seminars, which meet at the Norwegian Competition Authority’s offices in Bergen, feature lecturers from universities and research institutes in Norway and abroad as well as Competition Authority staff.

Reports published in 2004

NORWEGIAN COMPETITION AUTHORITY PUBLICATIONS

■ 3/2004 The Norwegian Competition Authority’s tenth anniversary commemorative book 2004. (Published in Norwegian.)

■ 2/2004 Who will price books? An assessment of the Norwegian book market. (Published in Norwegian.)

■ 1/2004 Competition concerns related to recycling in Norway. (Published in Norwegian; abridged version in English.)

REPORTS COMMISSIONED BY THE COMPETITION AUTHORITY OR PREPARED IN COOPERATION WITH OTHER ORGANIZATIONS

■ Price harmonization for milk – who is milked, who skims the cream? ECON report no. 120/2004, December 2004. (Published in Norwegian.)

■ Regulation of international payment card issuer commissions. Published by a project group comprising members from the Norwegian Banking, Insurance and Securities Commission (Kredittilsynet), Bank of Norway (Norges Bank), and the Norwegian Competition Authority (Konkurransetilsynet). October 2004. (Published in Norwegian.)

■ Telecompetition – Towards a single Nordic market for telecommunication services? Report No. 1/2004, prepared by Nordic competition authorities. September 2004.

■ Mergers and alliances in civil aviation – an overview of the current enforcement practices of the ECA concerning market definition, competition assessment and remedies. Report by a working group appointed by the European Competition Authorities (ECA). May 2004.

■ Predatory conduct in Norwegian aviation? By professors Frode Steen and Lars Sjørgard, the Norwegian School of Economics and Business Administration. Memorandum commissioned by the Norwegian Competition Authority. April 2004. (Published in Norwegian.)

■ Monitoring market power in the power market. Report prepared by ECON Analyse; commissioned by the Norwegian Competition Authority and the Norwegian Water Resources and Energy Directorate (NVE). ECON report no. 117-2003. March 2004. (Published in Norwegian.)

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