

**IN 2007, THE NORWEGIAN  
COMPETITION AUTHORITY  
INCREASED ITS EFFORTS  
TO DETECT AND INVESTIGATE  
CARTEL ACTIVITIES.**



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# ANTI-COMPETITIVE CRIME MUST BE PENALISED

**In 2007, the Norwegian Competition Authority has increased its budget, dedicating more resources to the detection of cartel activities. The Competition Authority has invested these funds in internal development and more professional investigations.**

■ ■ In 2008, the Authority intends to further develop its cooperation with the National Authority for Investigation and Prosecution of Economic and Environmental Crime (Økokrim), the police service and other control bodies. We have also entered into a cooperation agreement with the Confederation of Norwegian Enterprise in order to improve advocacy.

**Anti-competitive crime shall be penalised. The EU guidelines for establishing penalties state that violations can be penalised by a fine of up to 10% of the company's annual turnover. We aim to harmonise the Norwegian penalties with EU practice.**

The Competition Authority has also taken the initiative to remove companies convicted of violating competition regulations from ethical investment indexes. Illegal price cooperation, bid-rigging and market sharing are not compatible with social responsibility. And anti-competitive crime is most definitely not compatible with normally accepted, basic, ethical principles.

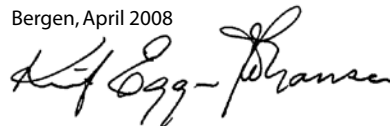
The importance of these ethical funds and indexes has increased,

reflecting an increased awareness by investors of the ethical and environmental foundations for the yield on their investments. We can utilise the criteria used by these indexes to send out a strong message that anti-competitive crime is unacceptable.

By way of example, we have raised the question of whether such limitations should be introduced to the ethical guidelines for the Government Pension Fund abroad. This could have a positive impact far beyond our national borders.

The combined effect of off-putting penalties and exclusion from ethical indexes may provide a significant contribution towards the Competition Authority's battle against anti-competitive crime.

Bergen, April 2008



**Knut Eggum Johansen**  
Konkurransedirektør



# THIS IS THE NORWEGIAN COMPETITION AUTHORITY

The Norwegian Competition Authority is working to promote healthy competition for the benefit of consumers, business and industry. The Norwegian Competition Authority's principal task is to enforce Norway's Competition Act.

■ ■ The Norwegian Ministry of Government Administration and Reform establishes the framework for the Norwegian Competition Authority's work. The Ministry serves as the appeals body for decisions and rulings made by the Competition Authority, except in the case of monetary fines for violations. Each year, the Ministry prepares a document that sets out the framework for the activities of the Authority for the forthcoming year. Operations are financed through the National Budget.

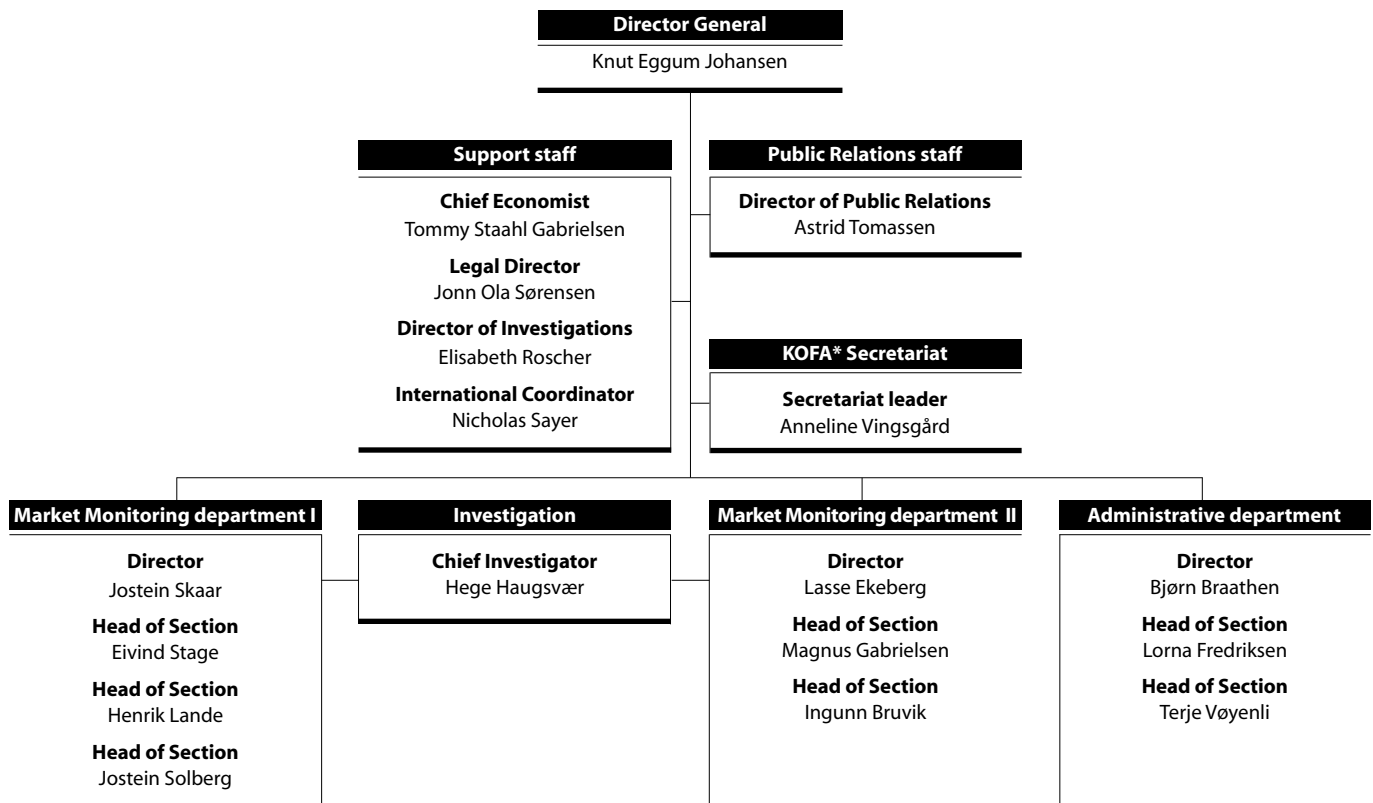
## THE RESPONSIBILITIES OF THE COMPETITION AUTHORITY

- Monitor adherence by business and industry to the Competition Act's prohibitions against competition-restricting cooperation and abuse of a dominant market position.
- Ensure that mergers, acquisitions and other business combinations do not significantly restrict competition.
- Implement measures to increase the transparency of markets.
- Enforce Articles 53 and 54 of the EEA Agreement.
- Identify laws, rules and governmental measures that have undesirable effects on competition.

The Norwegian Competition Authority can fine businesses for Competition Act violations. Norway's current Competition Act came into force on 1 May 2004.



## ORGANISATION



\* Secretariat of the Public Procurement Complaints Board

# International activities

**The international work of the Norwegian Competition Authority can be classified roughly into four areas: international legislation, individual international cases, training in international work and participation in international networks. All four areas of activity have one common goal – to promote competition.**

## LEGISLATION

Norway is bound by the EEA agreement to implement new EU legislation, including competition law. In this context, the Norwegian Competition Authority functions as a directorate for the Ministry of Government Administration and Reform, providing assistance in monitoring new EU legislation. The Norwegian Competition Authority therefore takes part in regular committee meetings and inquiries regarding legislative initiatives from the EU.

It is also essential that the Norwegian Competition Authority remains up to date on the development of non-binding regulations, so that we can ensure proper law enforcement and provide guidance to Norwegian companies and consumers.

## INDIVIDUAL CASES

The Norwegian Competition Authority plays a multi-part role in individual international cases. Pursuant to the Competition Act, Norway is bound to enforce articles 53 and 54 of the EEA agreement, which regulate cartel activities and abuses of a dominant position which affect trade between the EEA member states.

The Norwegian Competition Authority also responds to referrals between the European Commission and Norway in matters regarding mergers and acquisitions.

The Norwegian Competition Authority has the right to monitor individual cases even though we have no obligation to do so, for example cases leading to decisions which establish principles.

## TRAINING

EU and EEA legislation is comprehensive and detailed. Thorough training in EU law is essential for our executive officers if they are to reach correct decisions and for the Authority to fulfil all of its obligations regarding guidance for business and consumers. The Norwegian Competition Authority has therefore introduced a priority program in 2007 for international training of many of our employees, including courses in EU law held by King's College in London.

## INTERNATIONAL NETWORKS

The Norwegian Competition Authority takes part in various networks at the Nordic, European and global levels. The main aim of participation is to increase our influence on relevant cases, improve the efficiency of our case work and to exchange experience and initiatives with other countries. Network building generates trust, opens doors and provides input not available from other sources. A certain degree of personal relationships and social integration is also important if we are to have an impact internationally.

By International Coordinator  
**Nicholas Sayer**



## EUROPEAN COOPERATION

■ ■ EU legislation is both a source of law and a source of inspiration for Norwegian competition law. However, Norway does not take part in the EU's decision-making body. EU networks and working groups are therefore an all-important arena for Norwegian involvement and influence. The Norwegian Competition Authority participates in the European Competition Network (ECN), to which the EFTA member states also have access. The Authority also participates in general meetings with the EU's Directorate General for Competition, and in the information network ECA (European Competition Authorities).

## NORDIC COOPERATION

■ ■ Nordic cooperation is natural for the Norwegian Competition Authority. The Nordic countries have similar demography and competition laws. The Nordic competition authorities therefore have cooperated with each other over a long period and maintain close, ongoing contact. The formal Nordic cooperation comprises an annual meeting of Directors and an annual general meeting. In addition, a general Nordic meeting for competition authority lawyers and a Nordic meeting for Chief Economists are held once a year. One example of Nordic cooperation in 2007 was the Nordic report on the power market, "Capacity for Competition".

## SUBJECT: GROCERIES AND FOOD

# Results matter

**In two important cases in 2007, the Norwegian Competition Authority encouraged the parties to change their practices and agreements in order to improve competition. In this way, the Authority achieved its goal of more effective competition without having to adopt formal decisions. This method can provide considerable resource savings, not only for the parties involved and the Authority, but also for society in general.**

■ ■ The main aim of pursuing violations of law is naturally to get the parties involved to change their conduct and to deter other parties from engaging in such conduct in the future.

Violations of the Competition Act's prohibitions of anti-competitive cooperation and abuse of dominance can result in a decision by the Norwegian Competition Authority. The Authority may order the parties to discontinue a certain type of conduct or practice, or order the parties to amend an agreement. The Authority can also take a decision to impose administrative fines for violations of the law or initiate criminal prosecutions.

### SIGNIFICANT SAVINGS

A decision to prohibit conduct, possibly in combination with a penalty for violation of law, often requires the Authority to expend substantial resources. The parties also spend significant time and money on internal resources and legal assistance or other consultants. If the Authority succeeds in convincing the parties involved to change their conduct before reaching a formal decision, both the Authority and the parties involved will save significant costs.

In 2007, the Norwegian Competition Authority handled two cases related to possible violation of the Competition Act which were concluded by the parties changing their conduct. The Authority did not, therefore, consider it necessary to initiate a decision-making process. One of the cases involved the exchange of price information among grocery store chains via the agency ACNielsen. The other case involved Microsoft's application of discounts in framework and cooperation agreements with a number of Norwegian county authorities. Although no decision was adopted in these two cases, the Authority performed detailed

and thorough casework before ACNielsen and Microsoft amended their agreements. The Authority carefully assessed both the facts and the technical issues raised by these cases. The parties naturally had the opportunity to put forward their views during the process. The Authority presented its evaluations and findings to the parties, who subsequently chose to amend their agreements and practices instead of going through a procedure that could result in formal decisions.

The method chosen in the ACNielsen and Microsoft cases is perhaps most relevant in cases where complicated legal and economic assessments are required, and where the issues are more or less unsettled under Norwegian and EU competition law. In addition, the Authority should not envisage the imposition of administrative fines in the case. Neither sanctions for non-compliance with a decision, nor appeal of a decision, should be likely for this method of case resolution to be applied.

### REPETITION IS SANCTIONED

It is important to note that the Authority has the right to adopt prohibition decisions even though the parties have already amended agreements or changed their practice so that the violation has been discontinued. This may be relevant in cases where, for example, the Authority believes there is a risk that the illegal practice may be repeated. Such repetition would imply a violation of the decision, which can be sanctioned with administrative fines or criminal penalties. In the ACNielsen and Microsoft cases, the Authority made it clear that its decision was conditional upon compliance with the changes in the agreements and practices. The Authority emphasized that a violation of this condition could result in a violation of the Competition Act, which could be sanctioned with administrative fines or criminal penalties.

### RESULTS MATTER – ALSO IN THE FUTURE

With the experience gathered from the ACNielsen and Microsoft cases, the Authority will from now on assess whether it suffices for the parties to amend their conduct, without the Authority having to adopt a formal decision in a case.

In competition cases, the European Commission may enter into an agreement with the parties involved regarding their future actions, instead of taking decisions. If the parties violate this agreement, the European Commission can charge the company significant fines. We have no similar legal authority for agreements, and sanctions in the case of violation of such agreements, in Norway. Therefore, the method applied in the ACNielsen and Microsoft cases is of particular interest.

The Norwegian Competition Authority has, at all times, a larger volume of cases to process than resources, and – like other authorities – has to prioritize. The Authority therefore intends to apply “results matter” in future cases also. The extent to which the Authority can focus on results must be assessed in light of casework requirements and the right to appeal, in addition to the need for clarification of the application of the competition law through decisions and the right to sanction violations of decisions.

By Legal Director  
**Jonn Ola Sørensen**





## Ceased illegal exchange of information

**In 2005, the Norwegian Competition Authority became aware that Norwegian grocery store chains had extremely good information about each others' prices. Since the Authority contacted the grocery store chains to discuss the matter, this anti-competitive reporting of prices has been terminated.**

■ ■ Every week, the four major Norwegian grocery store groups reported their prices to the analysis agency ACNielsen, where the information was put together and the figures quickly reported back to the chains. The grocery store chains therefore had access to updated and detailed information on each others' prices.

### **INFORMATION EXCHANGE RESTRICTS COMPETITION**

These price reports contained information such

as the prices each grocery store chain charged within a certain geographic area. This kind of information is not normally exchanged between competitors. With this type of detail quickly and easily available, the grocery store chains were far better informed on the actions of their competitors, and the competition between the chains was subsequently restricted. This type of exchange of information can therefore be seen as a violation of the prohibition in the Competition Act of anti-competitive cooperation.

After a review of the agreements between the chains and ACNielsen and an assessment of the reports submitted, the Norwegian Competition Authority decided that this most probably represented a violation of the Competition Act. Once the parties had been notified of the Authority's assessment, they themselves decided to amend their agreements and practice.

### **CONCENTRATED MARKET**

The Norwegian grocery store market is dominated by four nationwide groups, which together account for more than 98% of turnover, and it is difficult to establish a new business in this market. These were important factors in the Authority's finding of the negative impact of the price reporting.

The Authority became aware of this exchange of information in 2005, while working on a report on the payment for shelf space in grocery stores.

## SUBJECT: MEDIA AND COMMUNICATIONS

# Monitoring TV markets in a period of change

**The TV markets are in a period of significant change. Consumers benefit from newer and better products. In order to ensure productive competition for the future, the Norwegian Competition Authority requires in-depth knowledge of the markets and must continue to closely monitor developments.**

■ ■ Broadcasting companies rely on distribution to be able to communicate with viewers. Commercial broadcasting companies finance their activities with advertising income and viewer income. Advertising income is determined, among other things, by the number of viewers of the channel in question. The same applies to viewer financing, where the number of paying end users, and the price they pay, determines the amount of income. It is therefore essential for commercial broadcasting companies to enter into distribution agreements which secure their bases for financing.

### RAPID CHANGE REPRESENTS NEW CHALLENGES

Distributors aim to enter into distribution agreements with broadcasting companies in order to attract customers to their product. In this way, both broadcasting companies and distributors have coinciding interests. With a number of different TV channels and numerous alternatives for distribution platforms, distribution agreements are of great importance for both broadcasting companies and distributors.

The broadcasting companies compete to create the best TV channels, while the distributors compete to provide the best distribution system for the broadcasting companies and the best choice of channels for the end users. Certain broadcasting companies have better products than others, and therefore have a stronger position in negotiations with the distributors. Similarly, the distributors with attractive distribution systems have a stronger position in negotiations with broadcasting companies. Exclusive distribution agreements have been used in connection with the distribution of TV channels, both internationally and in Norway. Such exclusive agreements may affect competition among broadcasting companies, distributors and the product offered to viewers.

### CLOSE INSPECTION OF EXCLUSIVE AGREEMENTS

In light of the changes in the TV markets, the Norwegian Competition Authority felt that it was important to assess the potential effect of exclusive distribution agreements. In order to shed light on the possible effect of such agreements, the Authority ordered a report from Professors Hans Jarle Kind, Guttorm Schjelderup and Lars Sørgard from the Norwegian School of Economics and Business Administration. The Authority aims to evaluate different market mechanisms which influence the use of exclusive distribution agreements. The main content of the report will therefore focus on how the broadcasting companies and the distributors proceed rationally in order to achieve maximum profit. All evaluations are based on the assumption that the negotiations take place between a dominant broadcasting company or TV channel and two distributors.

The resulting analysis in the report is applied to a situation where the nationwide commercial TV channel, TV 2, chooses to broadcast exclusively via satellite on either Canal Digital or Viasat. The report evaluates the reasons for exclusive distribution in such a situation, and whether the end user benefits.

The effects of the exclusive agreement between TV 2 and Canal Digital have most probably been restricted competition and higher prices for viewers. In light of this, the agreement signed in the autumn of 2007 between Canal Digital and Viasat, according to which viewers on both platforms have the opportunity to view certain channels which previously had been offered on only one platform, is a positive development. The Authority has therefore decided not to intervene against the cooperation between Canal Digital and Viasat. The Authority is also positive towards the distri-

bution agreement entered into by TV 2 with both Canal Digital and Viasat. A broader distribution of TV 2 via satellite will open the door to tougher competition and lower prices for viewers. This is of particular importance now with the launch of the digital terrestrial television network.

### THE FUTURE

The TV markets are in a period of rapid development, with new actors and products appearing continually. Competition is also dominated by a number of strong organisations, both in broadcasting and distribution. The distribution of the most important Norwegian channels via both satellite and the new digital terrestrial network ensures solid foundations for future competition among broadcasting companies and distributors. It is essential for the Norwegian Competition Authority to closely monitor market developments in the future, also, in order to ensure sustained developments. The report provides the Authority with a good basis and a valuable tool for future efforts related to the TV markets.

By Adviser  
**Claus Holm Isaksen**







## Strict conditions for the Media Norge merger

**In January 2007, the Norwegian Competition Authority received notification of a merger among four major newspapers and one printer to form Media Norge ASA, of which Schibsted had controlling ownership.**

■ ■ The Norwegian Competition Authority laid down strict conditions for the approval of the merger.

The parties to the merger were all owners of major media organisations, with companies ranging from publishers of newspapers and Internet newspapers to operators of local radio and TV stations. The parties involved claimed

that, as media groups, they faced a number of challenges. Circulation numbers for the newspapers are declining, and the Internet newspapers are being challenged by news portals with search engines but with no news desk. The parties wanted to merge so that they could develop products which were better suited to meet these challenges than they could have achieved separately.

The Norwegian Competition Authority carried out an in-depth analysis to identify which markets would be affected by this merger. The analysis also investigated the potential effect of the merger on competition.

The Authority's analyses indicated that the merger would create – or strengthen – a significant restriction of competition in the market for printing of national newspapers and major regional papers in southern and western Norway. Subsequently, the Authority laid down a number of conditions to secure for current and future customers delivery of printing services. The Authority's resolution is valid for 10 years.

### 2007 MARKED BY STRUCTURAL CHANGES

■ ■ The past year has been marked by structural changes in the telecommunications, media and publishing branch. The digital terrestrial television network began operations and provided end users with a new distribution platform for broadcasting signals, which competes with existing platforms. In the autumn of 2007, Network Norway and Tele2 decided to build a third mobile network in Norway via the company Mobile Norway.

### TELENOR ACQUISITION OF TALKMORE

■ ■ In July 2007, Telenor Mobil AS purchased the independent mobile company Talkmore. The Norwegian Competition Authority decided not to intervene in this acquisition. The Authority took into account the

decline in Telenor's market shares over recent years, the small size of Talkmore, the high number of operators in the market and the decline in prices. With respect to the wholesale market, the fact that Network Norway and Tele2 had entered into a comprehensive cooperation agreement to develop their own mobile network was taken into account.

### MERGER OF CAPPELEN AND DAMM

■ ■ The two publishing houses merged and established a joint company, Cappelen Damm AS. The Norwegian Competition Authority decided not to intervene in this merger. Although the parties would, as a result of the merger, achieve a high market share in certain book groups, an overall evaluation taking into account, among other factors, the potential for competitors to respond, indicated that the merger did not create or strengthen a significant restriction of competition.

**SUBJECT: ENERGY**

# Continued challenges in the power market

**The power market in Norway functions well in comparison with the power markets in the majority of other European countries. However, there remain several major challenges if we are to achieve effective and healthy competition in the power market.**

■ ■ This is substantiated by the Nordic competition authorities' report, "Capacity for Competition," which indicates that the power market is still marked by high ownership concentrations, cross-ownership and jointly owned power stations. Concentration has increased in recent years. Transfer capacity and the consumers' knowledge of prices represent further challenges. At the same time, however, the competitive situation is better than in many European countries. The problems faced by the energy sector in Europe are related to a high degree of market concentration, vertical integration and lack of transparency.

## MONITORING THE POWER MARKET

The challenges faced by the Norwegian power market have also been assessed in the EFTA Surveillance Authority's (ESA) report regarding the conditions in the electricity sector in the EFTA countries. The report indicates that the higher degree of market concentration in Norway and Statkraft's ever-increasing market position may restrict competition. The ESA also highlights other challenges, such as the ambiguity in governmental framework conditions for new investments in infrastructure, regulation of public ownership in connection with hydropower production (right of reversion) and special schemes for energy-intensive industry.

The Norwegian Competition Authority monitors competition in the power market and is responsible for intervening in the event of anti-competitive structural changes and conduct. The Authority cooperates with other Nordic competition authorities on issues related to the power market. The authorities consult and assist each other on important cases and exchange information regarding essential problems.

As a part of our work to detect possible abuse of market power in the wholesale market, the

Authority also cooperates with the Norwegian Water Resources and Energy Directorate regarding inspection of price developments on the wholesale market. The market is monitored via a number of price indicators. Any deviations in such price indicators are investigated in detail.

## DUTY TO REPORT FOR STATKRAFT ALLIANCE

In order to maintain efficient surveillance of the competition in the market, the Norwegian Competition Authority in 2007 imposed on the Statkraft alliance an extended duty to report acquisitions of any parts of the companies within the alliance. The Authority also makes use of its own tool for monitoring the ownership structure within the power branch.

## POPULAR OVERVIEW OF ENERGY PRICES

The Norwegian Competition Authority aims to ensure effective competition in the end user market for energy. One important measure is the overview of energy prices which is published on the Authority's web site. The purpose of this overview is to provide private individuals with a simple way to compare prices and choose the least expensive energy supplier.

## TRUST IS A PREMISE FOR EFFECTIVE COMPETITION

Effective competition in the end user market for energy is essential. It is equally important that the consumers can trust the overview of energy prices. For the Competition Authority, it is a prerequisite that all information on energy prices and conditions reported by suppliers and published in the overview of energy prices be correct. The Authority therefore penalised the power company, B2C Energy, with a fine of NOK 60,000 in 2007 for submitting incorrect or incomplete information to the Authority.

## NORWEGIAN PRACTICE AT VARIANCE WITH THE EEA AGREEMENT

At the end of June 2007, the EFTA court determined that Norway's practice of the right of reversion was at variance with the EEA agreement. Later in the autumn, the government passed a provisional decree regarding reversion. The decree established that public ownership of hydropower resources at state, regional and local level shall be sustained, and that licences will no longer be granted to private actors for acquisition of waterfalls and power stations. Private actors can still own up to a third of publicly owned hydropower stations. The Authority will assess any competition-related impact of this decree when a hearing is held, most probably at the start of 2008.

## FUTURE CHALLENGES

In 2008, the Norwegian Competition Authority will maintain active surveillance of the competition in the power market in order to prevent abuse of market power and anti-competitive cooperation. The level of concentration in the market shall also be actively monitored. Throughout the year, the Authority will maintain its efforts to chart the power market and analyse possible measures to improve competition.

By Head of Section  
Ingunn Bruvik





## Nordic energy report indicates challenges

**In 2007, the Norwegian Competition Authority chaired a Nordic working group compiling the report, "Capacity for Competition," on the development and challenges in the power market. The report indicated that, although the Nordic power market functions well, a number of challenges remain including those related to market concentration, transfer capacity and consumers' knowledge of prices.**

■ ■ The report shows that the Nordic power market still remains within the hands of a few powerful players. Ownership concentration is aggravated by widespread cross-ownership and jointly owned power stations.

When major and competing power companies jointly own a power station, there is a much higher risk of exchange of sensitive information and reduced competition. Trust in the power market is also impaired. There is an increasing risk that leading power companies may have an influence on the services

and price levels on the market. The Nordic competition authorities therefore recommend a reduction in the extent of cross-ownership and jointly owned power stations.

In order to achieve a satisfactorily functioning power market, the transfer capacity between the Nordic countries must be increased. The Nordic system operators have adopted five main projects which receive support from the Nordic competition authorities. In addition, the report also advises system operators to increase their utilisation of capacity.

### **LOWER PRICES REQUIRE KNOWLEDGE-ABLE CUSTOMERS**

Competition can only be fully effective if customers are sensitive to price changes and utilise their right to change supplier if prices differ. The Competition Authority supports the government's proposal to introduce meters with two-way communications for all energy users. The introduction of hourly measurement, continuous price information and new

contracts may strengthen market competition and push prices down.

If we are to achieve healthy competition on the market, all power suppliers must have equal access to the transfer and distribution network. Necessary information from network companies, such as information on energy customers, must be available for all suppliers simultaneously. In 2006, new regulations were introduced which stipulated that companies involved in both network and power sales, and which had in excess of 100,000 network customers, must organise the two different activities into different companies. The Authority determined that this requirement did not suffice to ensure neutral conduct by the network companies. The report therefore advises an obligation for complete ownership division between monopolies and companies exposed to competition. As a minimum, the requirement for legal separation between the companies should also apply to companies with less than 100,000 network customers.

**SUBJECT: BANKING AND INSURANCE**

## Focus on the customers in the financial markets

**There are numerous indications that individual customers in the financial market, which comprises banking, savings and insurance, seldom change supplier. Many have problems understanding the complexity of the market.**

■ ■ This affects both competition among existing suppliers and incentives for new entry. The Norwegian Competition Authority has therefore focussed on making it easier for customers to change supplier. Efforts have been made to reduce the actual cost of changing supplier, make information on the different suppliers' products more easily available, and reduce the uncertainty related to how to change supplier.

### COOPERATION PROVIDES RESULTS

The Authority's efforts to promote competition in this sector require cooperation with other Norwegian authorities and representatives from the branch. The majority of recent changes in regulations have been a result of an EU drive to establish a single common financial market. The Authority's international work has subsequently gained increasing importance. As our focus is on the customer, we also have natural partners in the consumer authorities.

Over recent years, a number of initiatives have

been introduced to make it easier for customers to find information and change suppliers in the financial market. The Authority has been involved in formulating a number of these initiatives. One example, from 2006, is the reduction of the registration fee for house loans.

There have also been several important changes in recent years related to general insurance. New regulations now allow customers to move their insurance policies at any time, and not just on annual renewal – the term of notice is now just one month. In June 2007, the general insurance companies introduced a new branch standard which makes it easier to change insurance company. With effect from 1 January 2008, all insurance companies are obliged, at the time of annual renewal, to inform their customers of the premiums for the past year. This makes it more difficult for insurance companies to increase their prices once a customer has signed a contract with a company.

### SIMPLER TO CHANGE BANKS

In June, a report on initiatives and schemes which could diminish negative consequences for customers who wish to change banks was presented to the Ministry of Finance. The working group responsible for this report comprised representatives from the finance branch and various authorities, including the Norwegian Competition Authority. The report recommends the introduction of a "Switching code," a scheme which makes it easier for customers to change bank.

### FINANCIAL WEB SITE PROVIDING CUSTOMER ASSISTANCE

A new financial web site, Finansportalen.no, was launched on 14 January 2008 to provide assistance to consumers searching for the best offer regarding loans, daily banking services, savings and general insurance. The Competition Authority believes that this web site will help increase competition within the financial market.

**SUBJECT: TRANSPORT**

## Aim to strengthen competition in the taxi market

**In 2007, the Norwegian Competition Authority had a number of cases involving the taxi industry.**

■ ■ Competition between taxi central dispatchers is a prerequisite for tender competitions for taxi transport. According to Statistics Norway, the taxi industry in Norway had a turnover totalling NOK 6.35 billion in 2005. A substantial share of this turnover is generated from contract and tender transport, of which transport of patients represents a major part. The Competition Authority has received several claims of illegal cooperation related to tenders for transport of patients. These complaints are being processed.

### SIMPLER CHOICE FOR TAXI CUSTOMERS

In cooperation with the consumer authorities

and the taxi industry, the Competition Authority is currently working to improve price information within the taxi branch. The aim is to allow taxi customers the opportunity to make rational choices. Among the initiatives being evaluated are improved price information at taxi ranks, in the taxis and on the Internet.

At the request of the Norwegian Taxi Owners' Association, the Competition Authority is also assessing whether to change the tariff system by introducing so-called "parallel tariffs." According to the Norwegian Taxi Owners' Association, the new tariff system will make it easier to identify

and check taxi prices. The Competition Authority aims to conclude this assessment in 2008.

### STRICT REGULATION OF THE TAXI INDUSTRY

The strict regulation of the taxi industry implies a significant fragmentation of the responsibility held by various public authorities. The county administrations, as licensing authorities, have the authority to determine how the taxi industry should be organised within each licensing district. In 2007, the Competition Authority urged all county authorities in Norway to implement measures to increase competition between taxi central dispatchers.

## JANUARY

■ ■ With effect from 1 January, KOFA (the Public Procurement Complaints Board) is granted authority to penalise illegal direct procurement.

■ ■ The Norwegian Competition Authority issues a formal letter pointing out that Buskerud County needs to increase competition among the taxi central dispatchers within the county. This formal letter was subsequently sent out to all county administrations.

■ ■ SAS receives guidance regarding competition on flights between Oslo and Alta.

## FEBRUARY

■ ■ The Competition Authority fines TINE a total of NOK 45 million for abuse of a dominant position and anti-competitive cooperation.

■ ■ The Authority prohibits a taxi merger in Sør-Trøndelag. The prohibition was appealed, but the appeal was rejected by the Ministry.

## MARCH

■ ■ B2C Energy is fined NOK 60,000 for failing to submit correct and complete information to the Authority.

## APRIL

■ ■ The Authority assesses the grocery store chains' exchange of price information via the analysis agency ACNielsen. After the parties involved were notified of the Authority's assessment, they decided to change their practice.

## MAY

■ ■ Tide Reiser AS and Veolia Transport are prohibited from cooperating on the operation of the express bus service, Kystbussen, which travels between Bergen and Stavanger.

## JUNE

■ ■ Microsoft and the Norwegian county administrations amend their cooperation agreement for software licences after an assessment carried out by the Competition Authority.

■ ■ The Competition Authority approves the Media Norge merger, on certain conditions.

■ ■ The Ministry of Government Administration and Reform adopted a regulation prohibiting frequent flyer programs on domestic flights.

## YEAR IN REVIEW: 2007

## OCTOBER

■ ■ The Competition Authority initiates a report on the Norwegian TV market.

## NOVEMBER

■ ■ Meat and egg supplier, Nortura, receives approval for its acquisition of Hå rugeri (chicken farm), on certain conditions.

## DECEMBER

■ ■ The SAS case was concluded with an out-of-court settlement.

■ ■ The Competition Authority recommends the establishment of an appeals board for merger and acquisition cases.

## SEPTEMBER

■ ■ The Competition Authority publishes the analysis, "Capacity for Competition," about the Nordic power market, in cooperation with authorities in Sweden, Denmark, Finland and Iceland.

■ ■ The Competition Authority is awarded the Dagligvareprisen, an award for the Authority's work related to the grocery industry.

■ ■ The Competition Authority does not oppose the merger between the Oslo Stock Exchange and the Norwegian Central Securities Depository.

## AUGUST

■ ■ The Public Procurement Complaints Board (KOFA) issues its first penalty to the Norwegian Public Roads Administration. The penalty totalled NOK 1 million.

## JULY

■ ■ The Competition Authority supports strict surveillance of RiksTV in an indication formal letter to the Norwegian Post and Telecommunications Authority.

■ ■ The merger between BBS and Teller is approved, on certain conditions.

## INCREASED INVESTIGATION

In 2007, the Norwegian Competition Authority increased its efforts to investigate violations of the Competition Act. This work receives a high priority and represents a central tool in the fight against anti-competitive crime. Price-fixing and market sharing do not benefit society at large. International analyses indicate that consumer prices are 15–40% higher in markets where the suppliers cooperate, in violation of the competition regulations, than where competition is fully effective.

In 2007, the Competition Authority increased its investigative capacity by recruiting new human resources, purchasing advanced technical tools and introducing closer internal coordination.

The Competition Authority investigates both cartel cases pursuant to Section 10 of the Competition Act, and abuses of dominance, pursuant to Section 11 of the Competition Act, and the corresponding EEA regulations, articles 53 and 54. In international cases, the Competition Authority provides assistance in the form of practical investigations to both the EFTA Surveillance Authority (ESA) and the European Commission.

### **OFTEN DIFFICULT TO DETECT VIOLATIONS OF COMPETITION LAW**

Members of cartels work hard to conceal their illegal activities. In most cases, customers, competitors and the authorities are deceived and seldom discover such activities. As a rule, the official accounts and documentation filed by such a company do not contain information which would reveal that the company is part of a cartel. Central witnesses are often employees of companies which take part in illegal actions. They have ties of loyalty to their employers, and this also makes it difficult to gather evidence of crime. These factors are also common for other types of economic crime, such as corruption and violations of public procurement regulations. The characteristics of violations of competition law are therefore not unique. It is important to take note of such similarities.

### **INCREASE OUR TOOLS FOR FIGHTING CRIME**

The most important tools possessed by the Competition Authority in their fight against anti-competitive crime are investigation, the leniency programme, tips and cooperation with other authorities.

### **SECURING EVIDENCE AND DEPOSITIONS**

The Competition Authority has effective tools for the investigation of crime. When the Authority requires a formal statement, the source is obliged to give evidence – and to tell the truth. Once the Competition Authority has received the court's authorisation to secure evidence, the Authority's staff can search for evidence at the company premises and, for example, employees' homes. In 2007, the Authority secured evidence for two cases at six different locations. The investigations in both cases are on-going, and the Authority has carried out a number of formal statements.

### **LENIENCY**

Experience gathered within the EU and several other countries indicates that an effective leniency programme is the most important tool for the detection of cartel activity. This is because leniency will contribute to or increase instability within the cartel. The first member of the cartel who comes forward may be granted immunity from administrative fines. The remaining members who decide to cooperate may, at best, be able to reduce penalties by half.

In Norway, the regulation regarding leniency was adopted in 2004. In 2007, the Competition Authority received its first request for leniency. In total, we received two applications in 2007. This is lower than expected. The Competition Authority is therefore working to make this regulation even more effective. This involves improvements of the scope of legislation and regulations, cooperation with prosecuting authorities and external information.

### **TIPS**

Tips are another source of information on possible cartel activities. The Competition Authority receives tips from private individuals, companies and public bodies. In 2007, the Competition Authority implemented a project to improve the internal processing of tips. In total, the Authority receives numerous tips, but not all are related to the Authority's area of activity. Not only do tips form the basis for investigations, systematic processing of tips provides us with more solid foundations for monitoring certain markets.

### **CONTACT NETWORK**

The Competition Authority regularly exchanges experience with competition authorities in other countries, and with national bodies responsible for other regulations within Norway. We also have a close cooperation with the Norwegian National Authority for Investigation and Prosecution of Economic and Environmental Crime. This is particularly important, with a view to the close connection between anti-competitive crime and other types of economic crime. Moreover, it is important to maintain close contact with both public and private procurers, so that they are aware of the regulations and know what to report if they suspect a violation of the law.

### **REINFORCED INVESTIGATIVE FUNCTION IN 2007**

The Competition Authority has recruited new staff to central positions, invested in advanced tools and introduced a major focus on internal

interaction in order to reinforce its investigative function over the past year. This project will continue in 2008.

#### REINFORCED ORGANISATION

In 2007, the Competition Authority recruited new staff to work explicitly on investigations. These include a Director of Investigations, a Chief Investigator and a further two senior advisers who will focus on investigations.

#### INVESTMENT IN ADVANCED COMPUTER TECHNOLOGY

Over the past few years, the Competition Authority has received assistance from the Norwegian National Computer Crime Centre in connection with securing electronic evidence. At the time of writing, the Competition Authority is in the process of establishing a new computer laboratory in Bergen for preparation and analysis of material.

#### CLOSER COORDINATION AND EXCHANGE OF EXPERTISE

As a part of the fight against cartel activities, the Competition Authority has placed a focus on internal coordination, sharing of expertise and training. In the autumn of 2007, the Authority carried out internal training for a group of executive officers who do not work daily with the investigation of crime. In addition to internal lecturers, the Competition Authority received important contributions from an investigator and a public prosecutor from the Norwegian National Authority for Investigation and Prosecution of Economic and Environmental Crime (Økokrim).

#### CONTINUED EFFORTS IN 2008

After the move to Bergen, the Competition Authority's investigative unit has been re-established and extended. The organisational and technical systems are largely in place. We have worked throughout 2007 to build solid foundations upon which the Competition Authority can continue its work to fight cartel activities and other anti-competitive crime. In 2008, we aim to continue with training in specific areas, and will place an increased focus on detection of anti-competitive crime; using tools such as the leniency programme, intelligence work and normal investigations.

The Competition Authority has a target to establish penalties for violation of regulations as soon as possible after the investigation and review have been concluded. Work is under way to amend the regulations so that the national penalties are harmonised with those within the EU. This will result in an increase in penalties, which in turn will deter criminal activities and motivate cartel members to apply for leniency.

#### INVESTIGATIVE WORK

ACTIVITY	2005	2006	2007
Securing evidence – cases/locations	2/7	2/4	2/6
Depositions (formal statements) – cases/statements	1/53	2/7	3/12
Assistant to the ESA/European Commission	0	1	0

#### REPORTS TO THE POLICE

ACTIVITY	2005	2006	2007
Reports submitted	1	2	0
Cases closed	5	1	0
Cases still under investigation by Økokrim	4	5	5

#### PENALTIES, SECTIONS 10 AND 11

ACTIVITY	2005	2006	2007
Statement of objections regarding illegal cooperation (cartel), Section 10	1*	1	3
Decisions regarding illegal cooperation (cartel), Section 10	0	0	2*
Statement of objections regarding abuse of dominance, Section 11	2	0	0
Decisions regarding abuse of dominance, Section 11	1	0	1

\*) Decision V2007-2 involves violation of both Sections 10 and 11.

By Chief Investigator  
**Hege Haugsvær**



# ORGANISATION AND HUMAN RESOURCES

## JOB DISTRIBUTION AND EQUAL OPPORTUNITIES

The Norwegian Competition Authority has a total of 93 employees, including those on leave. The table below shows the distribution of jobs, divided between women and men, as of 31 December 2007.

Position	Total	Women	Men
Managers	20	7 (35 %)	13 (65 %)
Senior advisers	27	10 (37 %)	17 (65 %)
Advisers	25	13 (52 %)	12 (48 %)
Higher executive officers	14	9 (64 %)	5 (36 %)
Executive officers	7	7 (100 %)	0 (0 %)
<b>Total</b>	<b>93</b>	<b>46 (49 %)</b>	<b>47 (51 %)</b>

## PERIOD OF SERVICE WITH THE NORWEGIAN COMPETITION AUTHORITY

Since 2003, there has been considerable turnover within the Competition Authority due to the move to Bergen, in addition to the normal turnover of employees. The Competition Authority therefore has a high number of employees with a short period of service. 47% of employees have worked for the Competition Authority for 2 years or less, while 32% have a period of service between 2 and 5 years. Only 21% have a period of service of 5 years or more. They have worked for the Competition Authority in Oslo and have either moved to Bergen or commute between Oslo and Bergen.

## TRAINING PROGRAMME

In order to strengthen expertise, the Competition Authority has extended its training programme from 2006. The programme has three main aspects:

- Employees shall learn by solving cases, taking part in courses and studying individually.
- External and internal lecturers to provide basic in-house training in the field of competition.
- The development of specialised expertise in competition economics and competition law through external resources.

The Competition Authority has also implemented a guidance and development programme for middle managers. This programme started in 2007 and will continue in 2008.

## TURNOVER AND RECRUITMENT

Turnover in 2007 was 20%. In total, 24 persons resigned from their jobs with the Competition Authority in 2007, with equal numbers of men and women.

The Competition Authority published 12 job advertisements in the daily newspapers in 2007. A total of 300 persons applied for the positions, with an average of 25 applicants for each position. 18 persons were recruited, 9 women and 9 men.

The labour market is tight, and it has proved difficult to recruit lawyers with experience in competition law, and economists and lawyers with managerial experience.

Students have also been recruited as summer substitutes, to gain an insight into the work of the Competition Authority and to motivate them as potential candidates for future positions with the Authority.

## SICKNESS ABSENCE

The Competition Authority has signed the Agreement on a More Inclusive Work place, and is actively involved in measures to reduce sickness absence. The Authority's target for sickness absence is 5%. The figure for 2007 was 5.38%. Absence is somewhat lower for men than women. The Competition Authority has specific procedures for follow-up of persons on sick leave.

## EQUAL OPPORTUNITIES

The Competition Authority maintains a sharp focus on equal opportunities for all internal and external recruitment for all positions, particularly when recruiting to a managerial position. For all job advertisements from chief executive officer and above, women are particularly encouraged to apply.

In connection with the establishment of activities in Bergen, the Competition Authority has principally succeeded in achieving a fair distribution of the sexes.



# BUDGET AND ACCOUNTS

## BALANCE SHEET (Amounts in Norwegian kroner)

	Ordinary operations	Relocation costs	KOFA*
Allocated budget for 2007	84 661 000	1 460 000	6 324 000
Expenditure in accordance with 2007 accounts	84 661 000	1 467 000	6 285 000
<b>Balance</b>	-	<b>- 7 000</b>	<b>39 000</b>

\* The Public Procurement Complaints Board

## REVENUES IN 2007

The Public Procurement Complaints Board's revenues were budgeted at NOK 193,000. Fees paid in 2007 totalled NOK 1,134,830, which represent excess income of NOK 941,830. Penalties in 2007 generated revenues of NOK 935,000 for the Competition Authority.

## REVENUES FROM FEES TO THE PUBLIC PROCUREMENT COMPLAINTS BOARD, 2007 (NOK)

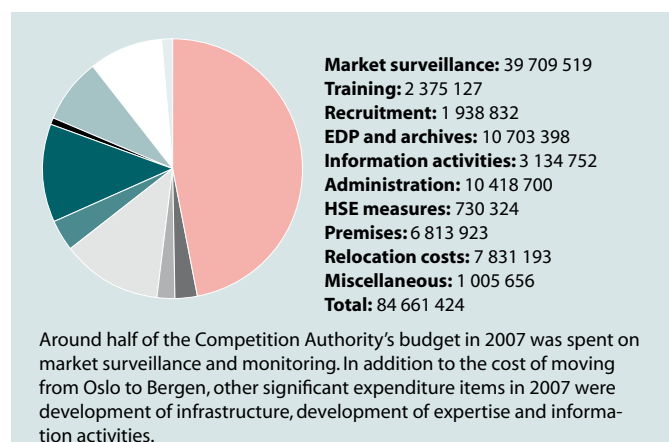
Budget 2007	193 000
Fees paid in 2007	1 134 830
<b>Excess income</b>	<b>941 830</b>

## REVENUES FROM PENALTIES, 2007 (NOK)

Relinquishment of gain 2007	-
Compulsory fine 2007	-
Fines 2007	-
Penalties 2007	935 000
<b>Total</b>	<b>935 000</b>

## EXPENDITURE DIVIDED INTO ACTIVITY, 2007 (kroner)

Market surveillance	Training	Recruitment	EDP and archives
Information activities	Administration	HSE measures	Premises
Relocation costs		Miscellaneous	



# CASE STATISTICS

## CASES CLOSED

	2004	2005	2006	2007
Interventions against mergers and acquisitions	5	6	2	5
Interventions against anti-competitive conduct	4 <sup>1</sup>	1	0	2
Formal letters regarding public regulations detrimental to competition	10	6	2	5
Written submissions of significance	81	61	68	58
Rejections of requests for intervention	10	41	55	36
Administrative fines – failure to submit or late submission of notification of mergers and acquisitions	0	6	66	17
Resolutions regarding obligation to report information to the Competition Authority		9	3	4
Decisions regarding maximum fares for taxis		2	0	1
Resolutions regarding the “Skattefunn” compensation scheme			440 <sup>2</sup>	3 <sup>2</sup>
Other resolutions			2	1

## CASES RECEIVED

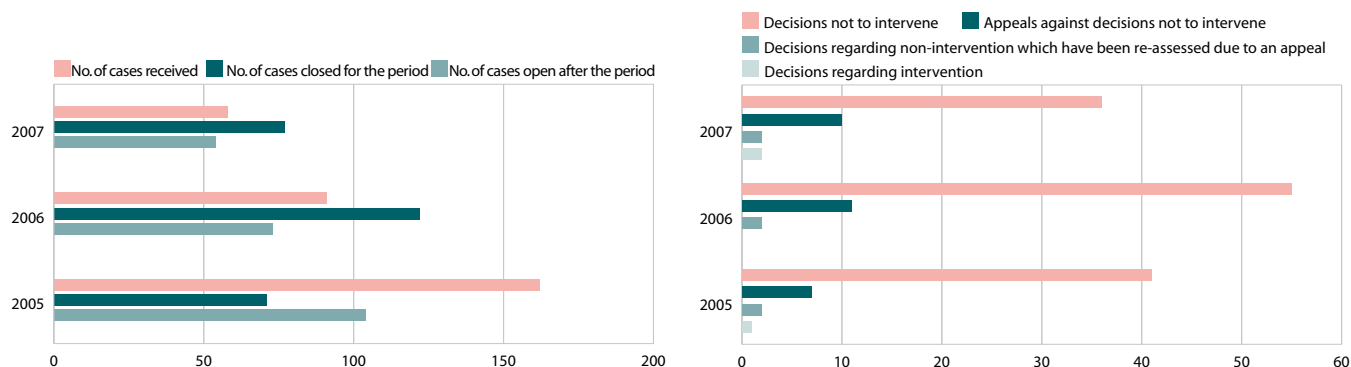
	2005	2006	2007
Notifications of mergers and acquisitions	623	872	561
Complaints and tips related to violation of law/anti-competitive conduct	162	91	58 <sup>3</sup>
Requests for identification of public regulations detrimental to competition	28	19	15
Cases for public enquiry	195	194	211
International cases	116	138	181
Administrative and other issues	547	311	261
The “Skattefunn” compensation scheme		314	
<b>Total</b>	<b>1671</b>	<b>1939</b>	<b>1287</b>

1: New legislation that prohibited abuse of dominance was introduced in 2004. Previously, the Competition Authority had to actively intervene in such cases.

2: For some cases, a number of decisions were adopted. Decisions in 2007 applied to a case received in 2006.

3: Simple requests made to the Competition Authority regarding anti-competitive conduct are now answered without being registered as separate complaints.

## CASES REGARDING ILLEGAL COOPERATION (SECTION 10) AND ABUSE OF DOMINANCE (SECTION 11)



## GOOD REPUTATION

**The Norwegian Competition Authority has a good reputation and enjoys the trust of both society in general and professional groups. The statistics regarding those who have a generally good total impression of the Competition Authority have remained stable over the past three years.**

The Competition Authority has prepared a strategy to establish a number of activity targets. Surveys relating to reputation provide information on the challenges faced, and make it easier to introduce measures to help us reach our targets.

### INSUFFICIENT KNOWLEDGE OF COMPETITION LAW

Although knowledge of and trust in the Competition Authority is, in general, satisfactory, the reputation survey indicated a requirement to increase knowledge of parts of the Competition Act. The Competition Authority places considerable focus on increasing knowledge of competition policy, in particular among business lawyers, business political organisations and businesses.

### 79% NOT FAMILIAR WITH LENIENCY PROGRAMME

The results from the 2007 survey showed that 79% of those asked were not aware of the leniency programme. The Competition Authority aims

to reduce this figure to 50% by 2010. In order to increase knowledge of this programme, the Competition Authority is working together with the Confederation of Norwegian Enterprise to prepare an information campaign directed towards the Confederation's members.

### SHOULD INTERVENE MORE OFTEN

The survey from 2007 also indicated that many believe the Competition Authority intervenes too seldom. The number of persons asked who stated this opinion represented 54% of the total, 11% more than in 2002.

### THE COMPETITION AUTHORITY SHOULD HAVE MORE POWER

77% of those asked believed the Competition Authority should have more power in the battle against illegal price fixing. This represented an increase of 10% from 2002.

## INFORMATION AND COMMUNICATION

**Information and communication are a priority and integral tool to help us generate a better understanding of competition regulations, and to present the Authority's evaluations.**

In 2007, the Competition Authority introduced a new cooperation agreement with the Confederation of Norwegian Enterprise. The purpose of this initiative is to increase dialogue with companies via meetings, seminars and active information regarding the Competition Act. The Competition Authority places a focus on contact with different branches under surveillance and with branch organisations. The Authority also has regular contact with cooperating authorities.

### THE COMPETITION AUTHORITY IN THE MEDIA

Media coverage is an important tool in helping increase understanding of competition. The Competition Authority featured in more than 3000 media reports in 2007, the majority of which were in media with wide distribution and with readers who represent central target groups for the Competition Authority.

### IMPROVED WEB INFORMATION

In 2007, the Competition Authority upgraded its web site, [www.kt.no](http://www.kt.no). The update included faster page display, electronic forms for tips and complaints, an overview of future events and the option to subscribe to a newsletter.

### PUBLICATIONS

The Competition Authority published the analysis "Capacity for Competition" regarding the Nordic power market, prepared in cooperation with competition authorities in Sweden, Denmark, Finland and Iceland.

### CONFERENCES AND SEMINARS

The Competition Authority held a conference in June related to competition and innovation, and a half-day seminar regarding vertical restrictions in September.

In February, during a half-day seminar on the fight against cartel activities, the lecturers included two of the foremost experts in the world on detection of and the fight against anti-competitive crime, Scott Hammond from the United States Department of Justice and Simon Williams from the British Office of Fair Trading.

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