

Annual Report 2008

**DETECTING  
CARTEL  
ACTIVITIES  
HAS TOP  
PRIORITY**



**Konkurransetilsynet**  
Norwegian Competition Authority



# 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.

## WWW.KT.NO/ENGLISH

- Information about leniency
- Latest news
- Overview of Competition Legislation in Norway
- List of decisions and public hearings
- List of mergers and acquisitions handled by the authority
- Publications

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## QUICK FACTS

Established:	1994
Main office:	Bergen, Norway
No. of employees:	102
Budget 2008:	NOK 88,9 mill
No. of cases 2008:	1,074

## THE PUBLIC PROCUREMENT COMPLAINTS BOARD (KOFA)

■ ■ KOFA is a national complaints board which decides whether public awarding bodies have violated the public procurement rules. The main purpose is to get the greatest value from society's resources.



In times of crisis, competition policy must stand firm, and competition authorities should walk tall.



# Stand firm, walk tall

■ ■ During the period 2002 to 2007, disposable income in Norway increased by more than 50 percent. This is most probably totally unprecedented in Norwegian history. International economic growth pushed up prices for oil, gas and other export products. At the same time, we were buying an increasing volume of consumer goods at low prices from new EU countries and from Asia. With well functioning markets, inflation and unemployment reached historic lows.

**Now, however, OECD countries are experiencing one of the worst economic downturns since World War II. Although Norway is faring better than many other countries, production is also declining in Norway and unemployment is rising.**

Experience gained from the crisis in the 1930s provides a clear message: Protectionist measures only served to deepen the crisis, making it much more drawn out than necessary. In Norway and a number of other countries, the 1930s governments promoted cooperation among different branches to help them maintain control over production and prices, and ultimately to provide employment and earnings in the short term. Trade associations were encouraged to organise collusive pricing, which is now punishable by law.

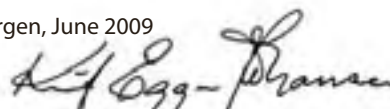
After the Second World War and up to the end of the 1970s, a number of counter-cyclical policies were introduced to maintain high levels of production and employment. These were at times combined with salary and price freezes to counteract unacceptably high inflation. During this period, efforts towards promoting efficient competition were a low priority. In time, however, these freezes on salaries and prices proved inappropriate. In its Long-term Program 1982-1985, the Norwegian government under Gro Harlem Brundtland launched what we now recognise as modern competition policy, among other reasons to try to keep price increases in check. There was increasing understanding of the role of well-functioning markets in ensuring the efficient use of resources within society.

A good competition policy is clearly defined and predictable. Enterprises – or their managers – will then think carefully before participating in illegal cooperation regarding prices, tenders or market sharing. Reductions in penalties as well as immunity for those who report cartel activities will encourage them to cease those activities. Companies with market power will act more carefully when it comes to exclusion of competitors, predatory pricing and offering discounts which bind customers to the company. Consistent control of mergers reduces the likelihood of mergers that harm economic welfare.

In the time to come, the packages of measures introduced by the Norwegian government will hopefully provide important tools for moderating the downturn in Norwegian economy. With this extraordinary government expenditure for public projects related to building and construction, those engaged in public procurement face increasing demands. In order to get the most value from these projects, full compliance with the public procurement regulations is essential. It is also important to ensure that the prices are not inflated by illegal collusion on prices, tenders and market sharing. Thus, the regulations for procurement must be complied with and the Norwegian Competition Authority must step up its surveillance of the markets at risk.







In summary, the financial crisis is not an excuse to relax competition policy – on the contrary! Competition policies must stand firm, and competition authorities should walk tall in times of crisis. Competition is not a goal in itself, but a means by which to achieve an efficient use of scarce resources and ensure welfare for all. Healthy companies that are used to competition are better prepared to weather crises – both financially and because they have the capacity to adapt.

Bergen, June 2009

  
Knut Eggum Johansen Director General



# Key Results in 2008

AREA	KEY RESULTS		READ MORE
<p>■ ■ FUEL</p>	<p><b>In 2008, the Norwegian Competition Authority (NCA) has:</b></p> <ul style="list-style-type: none"> <li>carried out a study into whether the price trends in the retail fuel market are caused by illegal cooperation</li> <li>stipulated conditions for Shell's takeover of YX petrol stations in order to ensure competition on local markets</li> <li>implemented a study project in order to increase insight into competitive conditions in the market</li> </ul>		<p>p. 7</p>
<p>■ ■ PHARMACEUTICALS</p>	<p><b>In 2008, the NCA has:</b></p> <ul style="list-style-type: none"> <li>identified competition challenges in the Norwegian pharmacy and pharmaceutical sector</li> <li>prepared a set of recommendations and initiatives for increased competition</li> <li>published a joint Nordic report on the various approaches to the regulation of structure and price, and various competition-related issues and experience in the pharmacy and pharmaceutical sector.</li> </ul>		<p>p. 8</p>
<p>■ ■ BROADCASTING</p>	<p><b>In 2008, the NCA has:</b></p> <ul style="list-style-type: none"> <li>contributed towards a broader distribution of the media rights to premiere league Norwegian football</li> <li>recommended the continuation of the licence condition allowing one competitor to RiksTV to have access to the digital terrestrial network</li> <li>blocked the acquisition of Aspiro Søk (search engine) by Opplysningen Mobil</li> </ul>		<p>p. 9</p>
<p>■ ■ GROCERIES AND FOOD</p>	<p><b>In 2008, the NCA has:</b></p> <ul style="list-style-type: none"> <li>stipulated the conditions for Rema 1000's acquisition of Lidl, in order to safeguard competition on a local market</li> <li>advised Voss municipality to take competition into account in the amendment of a development plan, and got agreement with its recommendation</li> <li>introduced a surveillance scheme for the gross margins in the dairy sector in order to prevent pricing conduct which restricts competition</li> </ul>		<p>p. 10</p>
<p>■ ■ FINANCE AND SERVICES</p>	<p><b>In 2008, the NCA has:</b></p> <ul style="list-style-type: none"> <li>acted as a driving force behind the work to make switching banks easier</li> <li>initiated studies of the market for international payment cards</li> <li>proposed a regulation to require Internet portals to provide universal access to house advertisements</li> </ul>		<p>p. 11</p>
<p>■ ■ INVESTIGATION</p>	<p><b>In 2008, the NCA has:</b></p> <ul style="list-style-type: none"> <li>adopted a decision to impose a penalty for violating the law in two cartel cases, and reported one case to the police</li> <li>strengthened its investigation section with a number of employees who have specialised expertise</li> <li>completed the establishment of a modern laboratory for securing and analysing confiscated data</li> <li>organized a number of courses related to investigation</li> </ul>		<p>p. 12-13</p>



# Deterrent Effect of Competition Policy

■ ■ The enforcement of the Competition Act has an impact on the conduct of those in business. The Norwegian Competition Authority (NCA) makes use of reputation surveys to measure the effect of its work. The most recent survey indicated a decline in the number of persons from professional environments who can report positive impressions and knowledge of the NCA. In addition, knowledge of the scheme for reductions in penalties remains unsatisfactory.

## THE NCA'S REPUTATION ON THE DECLINE

The percentage of those surveyed who had a good impression of the NCA has seen a marked decline during the past year, from 59 % to 51 %, taking the NCA back to the level it had in 2002. The percentage of persons with good knowledge of the NCA has fallen from 56 % to 48 %. These results are not due to an increase in those who report a negative impression or poor knowledge of the NCA. What the survey does indicate is an increase in neutral attitudes and views in 2008 as compared with 2007.

## STILL TOO LITTLE KNOWLEDGE OF THE SCHEME FOR REDUCTIONS IN PENALTIES

One long-term goal for the NCA is to increase knowledge of the immunity and leniency scheme, or reductions in penalties, for companies who report illegal cooperation. Despite an increase in its publicity, the NCA has not managed to increase knowledge of this scheme among professional groups. 83 % of those surveyed did not know what the

scheme involved, compared with 79 % in 2007. The NCA is therefore a long way from its target for 2010, which is for 50 % of those surveyed to answer this question correctly.

## COMPETITION POLICY AS A DETERRENT

■ ■ One new development for the year is a survey which aims at charting a number of the preventative effects of the Competition Act and its enforcement. The survey has been compiled on the basis of a similar survey created by the Office of Fair Trading in Great Britain. The Norwegian survey clearly shows that competition policy does act as a deterrent. This effect is most evident in relation to the abuse of dominant position and illegal agreements. According to those surveyed, numerous commercial agreements have been cancelled or significantly changed due to the risk that the agreement may be regarded as an illegal cartel activity in violation of section 10 of the Competition Act. The majority of those surveyed also feel that Norwegian competition policy is effective as a deterrent for abuse of dominant position (section 11 of the Competition Act). Over the past two years, a number of agreements have either been dropped or significantly modified due to the risk that they might be regarded as a violation of the prohibition against abuse of dominant position.

# Information and Communication

## ■ ■ THE NCA IN THE MEDIA

The media is an essential forum for communication with large groups. In general, the media displays a considerable interest in the NCA. In 2008, this interest generated well over 3000 media reports in Norway, many of which had broad coverage and with readers who represent important target groups for the NCA. A number of cases processed by the NCA have been reported in international trade journals and market intelligence services.

## INTERDISCIPLINARY EXCHANGE OF INFORMATION

The NCA holds regular meetings for information and contact with cooperating bodies such as the Financial Supervisory Authority of Norway, the Norwegian Post and Telecommunications Authority, the Norwegian Water Resources and Energy Directorate, the Agency for Public Management and eGovernment, and the Consumer Ombudsman.

## THE INTERNET

The NCA's web site, [www.kt.no](http://www.kt.no) is an important channel for information directed to the public, commerce and media. Every week, Norwegian competition news is published on the NCA's web site and sent to the email addresses of around 1,500 subscribers. The English service has around 100 subscribers. In 2008, the NCA has worked on translating important cases for the English section of its web site, and intends to translate all news to English shortly after it has been published in Norwegian.

## PUBLICATIONS

In February 2008, the NCA published its report entitled *Competition and Innovation in the Software Markets*. In July, the NCA published the report entitled *The Development of Sales in the Book Industry 2004 to 2007*. This was followed in October by the report entitled *Competition Challenges in the Pharmacy and Pharmaceutical Sector*, jointly compiled by the Competition Authorities in Denmark, Finland, Iceland, Sweden and Norway. To read more on this report, please see page 8.

## CONFERENCES AND SEMINARS

The competition law forum and competition economy forum held a total of eight events in 2008. These seminars are free of charge and open to anyone who is interested. They function as professional meeting places for both employees and external parties. The seminars very often have international lecturers. The most popular lectures were by Professor Stefan Szymanski on the market for media rights for football, and Erling Hjelmeng on cooperation in tenders and projects. The annual conference in competition law, held on 15 May, focused on sanctions and processes in violation cases. Featuring Norwegian and international experts such as Richard Whish from King's College, it attracted around 100 participants. There was also considerable interest in the conference on channel packages on the TV market, held by the NCA on 14 November together with the Norwegian School of Economics and Business Administration and the Institute for Research in Economics and Business Administration.



# International Cooperation Benefits Competition

## ■ ■ THE VALUE OF INTERNATIONAL COOPERATION

In the area of competition law, Norway has a common legal basis with the EU. Cooperation with the 29 other EEA countries and the EU can therefore be beneficial, despite the fact that Norway is not an EU member state. Comparing ourselves with other EU/EEA states is a way to gauge whether we are doing things correctly. In the past year, Norway and the Norwegian Competition Authority (NCA) have once again been reminded of the importance of international cooperation. We can mention a number of examples. One of these is the agreement between StatoilHydro and ConocoPhillips regarding the latter's Jet petrol stations. Another example is Norway's approach to the new regulation proposed by the European Commission for private law enforcement in competition cases.

### THE STATOIL – JET CASE

StatoilHydro's acquisition of Jet Scandinavia was reviewed by the European Commission. The Norwegian part of the acquisition was approved on the condition that StatoilHydro divest all Jet petrol stations in Norway. The petrol market in Norway is highly concentrated and therefore, if the transaction had gone through without this condition, the market structure with only a few major players would have been strengthened. The requirement to divest the petrol stations was therefore important for competition on the markets in Norway where Jet was present. The NCA cooperated closely with the European Commission during the consideration of this case. The NCA submitted formal comments to the Commission, and a representative of the NCA was part of the Commission's team for the case. This provided the NCA with greater insight into how the Commission handles such cases, thus enabling the Authority to learn from the Commission. In return, the Commission received valuable information on the NCA and the Norwegian market. All of the decisions adopted in this case were made by the European Commission. Nevertheless, the case allowed for the exchange of experience, benefiting both the European and Norwegian authorities and competition as a whole. Read more about the Norwegian retail fuel market on the next page.

## PRIVATE LAW ENFORCEMENT

On 2 April 2008, the European Commission presented its so-called "White Paper on damage actions for the breach of the EC antitrust rules". These "white papers" from the EU have been compared with an Odelsting Proposition in Norway. The purpose of this white paper is to investigate the degree to which it is possible to put forward a private claim for compensation in cases involving a violation of EU competition regulations. The document is the result of a long-term, comprehensive process, which has been closely followed and commented on by Norway. During the process, Norway submitted a hearing statement to the Commission on 15 July 2008. This statement has been made public and is available on the web sites of both the European Commission and the Norwegian competition authorities.

The main purpose of this EU initiative is to ensure compensation for loss suffered due to a violation of competition regulations. The Court of Justice of the European Communities has established that the opportunity to make such claims for compensation is a central element of the EU legal system. The white paper mentions a number of central issues regarding the opportunity to make such compensation claims. One of these is the opportunity to bring class actions. Experience from EU member states indicates that it is very uncommon for individuals to act alone to bring claims involving competition. The idea is that it is easier to put forward a claim for compensation as part of a group, hence the discussion on class actions in the white paper. Class actions are not possible in a number of EU member states. Norway has already introduced the possibility of class actions with the new Dispute Act which came into effect on 1 January 2008, making Norway a forerunner in this area. At the time of writing, the white paper is being reviewed by the European Parliament. Perhaps the final regulatory initiative will make proposals for solutions which have not yet been considered in Norway. Whatever the case, it will be exciting to see the effect the input from Norway will have on the final EU initiative. It will also be exciting to see the degree to which the solutions proposed by the EU concur with that already implemented in Norway.

## INTERNATIONAL COOPERATION

### ■ ■ Nordic competition authorities

Annual meeting with exchange of experience. Have also been in continuous contact. Have the right to exchange confidential information.

### ■ ■ EU/EEA

The NCA represents Norway on the advisory committee for issues involving competition and mergers, where the European Commission and the EFTA Surveillance Authority consult on specific matters. The NCA provides assistance to the ESA and the Commission in securing evidence in Norway.

### ■ ■ OECD

The NCA participated on the OECD's competition committee and in two working groups under this committee.

### ■ ■ European Competition Network (ECN)

A forum for cooperation among the European Commission and the competition authorities in the EU member states. The NCA is not a formal member but attends meetings involving policy issues and receives information which is communicated via the network.

### ■ ■ European Competition Authorities (ECA)

Network among the Competition Directors in the EEA. The NCA also participates in working groups within this network.

### ■ ■ International Competition Network (ICN)

Intended to increase the level of international cooperation and contribute to a harmonisation of regulations.

## Competition in the Retail

# FUEL MARKET

**Following articles in the media and discussions during parliamentary question time as to whether retail petrol (gasoline) prices follow a weekly pattern, the Norwegian Competition Authority (NCA) investigated the retail fuel market in spring 2008. The NCA's investigation did not uncover any indications of illegal cooperation, but rather found that the pricing pattern was attributable to the independent market behaviour of the parties involved.**



change their purchases from those days when they know the price is relatively high to those days with lower prices. This may increase competition on days with relatively low prices. According to the NCA, this weekly pattern may contribute to a price differentiation which can enhance competition, again benefiting the consumer. The NCA also observed that competition on local markets with several different petrol station chains is generally relatively strong throughout the week and weekend.

The fuel market is important for Norwegian consumers and the NCA intends to closely monitor the development of competition on this market in the future. The NCA will also focus on control of concentrations, to ensure a market structure with a sufficient number of independent and competing oil companies.

■ ■ In the spring of 2008, Øystein Foros and Frode Steen from the Norwegian School of Economics and Business Administration presented a study which indicated that retail petrol prices in Norway followed a specific pattern. They claimed that the petrol price rose significantly on Monday afternoon, fell gradually through the week and was at its lowest during the weekend and on Monday morning. The two researchers stated in the media that this fixed weekly cycle constituted a competition problem, which is different from the situation in other countries, and that the NCA should take action against the oil companies. This media debate was addressed during parliamentary question time on 9 April 2008 when questions were asked of the Minister of Governmental Administration and Reform: How does the NCA intend to monitor whether petrol prices follow a specific weekly pattern? In the spring of 2008, the NCA carried out a number of market studies to identify whether this was a case of illegal price cooperation. The NCA gathered detailed information during meetings with the

oil companies. They also carried out actions in Bergen and Trondheim at fuel retailers connected to the major oil companies. A comprehensive volume of data and other documents was gathered in order to investigate the cause of the observed price pattern, including the oil companies' pricing practices. The NCA's investigations concluded that there were no indications that the pricing pattern was caused by an illegal horizontal cooperation between the parties on the market for the sale of petrol. However, the NCA did receive information and documentation which they believe indicated that the parties independently adapted prices to the competitive situation on the market, and that the weekly price pattern was attributable to this independent behaviour. This type of independent market behaviour is not covered by the prohibitions in the Competition Act of horizontal price cooperation.

The NCA evaluated the observed price pattern and concluded that consumers could benefit if they knew when it was least expensive to buy petrol. Thus, price-conscious customers could

### FUEL MARKET WITH FEW BUT MAJOR PLAYERS

■ ■ The market for the sale of fuel in Norway has very few players operating in the various parts of the country, and most are major players on a nationwide scale. At the end of 2008, Statoil and Shell were the largest players, each with market shares of around 30 % of total turnover in Norway. Esso is the third largest player with approximately 20 % of total turnover, while YX has just over 10 % of the market. JET's market share is around 5 %. The oil companies sell fuel to their own distributors (which the oil companies own) and to independent retailers. Since the competition takes place in local markets, the competitive situation varies from place to place within Norway. In general, local competition is stronger in markets with a higher number of fuel station chains.

## Calls for More Participants in the Norwegian

# PHARMACY MARKET

**Today, the Norwegian pharmacy market is dominated by three large chains, vertically integrated between retailer and wholesaler. This market structure facilitates harmful cooperation among participants.**

■ ■ New entrants in the pharmacy market can contribute towards challenging the established market structure and promoting competition. It is therefore important to avoid unnecessary barriers to entry.

### THREE CHAINS DOMINATE

The deregulation of the wholesale market in 1995 and the new Pharmacy Act of 2001 have led to major changes in the market structure. Distribution in the pharmaceutical market is now dominated by three large pharmacy chains, each with its own vertically integrated wholesaler – the market has a so-called oligopolistic structure. Such market structures facilitate coordination among participants, which can violate the competition law prohibition of unlawful cooperation and abuse of dominant position.

Even though the new Pharmacy Act allowed for free establishment in retail distribution, the market is still based on a series of regulations grounded in the desire to protect public health and to limit the state's subsidy of pharmaceuti-

als. To avoid undesirable restrictions on competition, these regulations should not go further than necessary to attain their goals.

The Norwegian Competition Authority believes that the obligation of wholesalers to carry a full range constitutes a barrier to entry that is unnecessary to ensure the supply of pharmaceuticals in Norway. In order to promote competition, it is also important that all actors in the market have access to essential infrastructure on competitively neutral terms.

In addition, the Norwegian Competition Authority believes that increased Internet trade and sale of non-prescription pharmaceuticals outside of pharmacies can lead to the promotion of genuine price competition.

### RECOMMENDATIONS/INITIATIVES:

- ■ The requirement to carry a full range should be abolished.
- ■ Essential infrastructure should be regulated to ensure similar competitive conditions.
- ■ An increased possibility to engage in marketing can lead to increased price sensitivity and strengthened competition.
- ■ The regulation of the sale of non-prescription pharmaceuticals outside of pharmacies (LUA-regulation) positively affects competition and should be broadened insofar as it remains within medical good practice.
- ■ Internet sales within proper frameworks can lead to the promotion of genuine price competition.

### NORDIC REPORT IDENTIFIES COMPETITION CHALLENGES IN THE PHARMACY AND PHARMACEUTICAL SECTOR

Although the pharmacy and pharmaceutical sector in the Nordic countries has experienced broad changes in its framework with resulting changes in market structure and increased competition, there remain a number of competition issues and challenges. These challenges have been identified by the respective Nordic competition authorities in the 2008 report Competition Challenges in the pharmacy and pharmaceutical sector.

The report draws together the experience of various approaches to the regulation of structure and price, and various competition-related issues and experience in the pharmacy and pharmaceutical sector in the Nordic countries. This will provide a better knowledge base for the respective competition authorities in their assessments of proposed changes in framework conditions for the sector, as well as a better basis for choosing where to direct their own initiatives. The report shall also provide a better basis for handling cases related to the sector, including the assessment of mergers.



# The Media Rights to Norwegian FOOTBALL

**The broadcasting market is in a phase of dynamic development, marked by major technological and structural changes. These market developments pave the way for increased competition both within and among the different distribution platforms.**

■ ■ The media rights for premiere league football matches in Norway are managed by the Norwegian Football Association (NFF) in cooperation with Norsk Toppfotball (NTF), an association representing the football clubs in Norway's two top leagues (Tippeliga and Adeccoliga). TV 2 and Telenor made a joint purchase of exclusive media rights to football broadcasts between 2006 and 2008. In the spring of 2008, NFF and NTF founded a new company, Fotballmedia AS, to administer the sale of the media rights from 2009–2012. The Norwegian Competition Authority (NCA) feared that a continuation of this collective and exclusive form of selling media rights would have a negative impact on competition and could represent a violation of the prohibition against restrictive agreements. The NCA therefore contacted NFF to inform them that if they intended to continue selling the media rights collectively, they would have to organise the sale so that it was available to a larger range of competing tenderers. The NCA thereby aimed to promote competition between traditional broadcasters, between the companies involved in the different distribution platforms and, not least, among the platforms themselves.

The NCA and NFF held a number of meetings in the spring of 2008 in which the NCA provided specific contributions towards formulating the basis on which competition would occur in the sales process. The NCA also provided guidance on a number of specific issues in order to ensure the highest degree possible of competition for the media rights. The final competition specification contained features such as a comprehensive split of the media rights into packages and a clause on unconditional tenders. The intention was to prevent a practice whereby companies purchasing packages with central rights make their tender conditional upon being able to purchase other packages.

The result was that the media rights were distributed among a larger number of companies. For traditional TV, the rights were finally distributed between NRK and TV 2. For Web TV, both Schibsted and TV 2 received full rights, while Lyse Tele was allocated the broadband rights. The NCA believes that this new distribution will help develop new products and forms of distribution, in addition to providing a good range of services for viewers.

## EXCLUSIVE DISTRIBUTION OF INDIVIDUAL CHANNELS

■ ■ It is important to act in moderation when intervening in the actions of companies involved in markets characterised by major technological developments. The NCA has therefore, at the time of writing, advised the Ministry of Culture and Church Affairs against imposing regulations which require distributors to offer individual channels for sale. Nonetheless, the NCA will continue to monitor developments on the TV market, keeping a watchful eye on companies which, in a number of ways, attempt to restrict competition, for example by using exclusive agreements and by increasing the costs of switching providers. The NCA works hard to sustain competition in the long term by monitoring and analysing the markets, thereby providing specific advice to other authorities or intervening where required.



## Surveillance of the

# DAIRY MARKETS

**There is broad political agreement to ensure sufficiently high prices for dairy farmers in Norway. At the same time, however, it is also important to provide the lowest possible consumer prices for dairy products.**



■ ■ The price for raw milk is less than half the price paid by consumers for milk. Therefore, competition in the dairy production chain and retail chain has a large impact on the prices paid by consumers. Enforcing the Competition Act in these markets is therefore an important task of the Norwegian Competition Authority (NCA).

### A CONCENTRATED MARKET

The dairy cooperative Tine enjoys a near monopoly situation in the collection of dairy products in Norway, with a market share of around 96 percent. Tine is also the major producer of dairy products. Dairy product markets have high barriers to entry, making it difficult for new companies to enter the markets and for existing companies to expand. This type of market structure creates conditions conducive to abuse of dominant position, in violation of the Competition Act. The most likely forms of abuse of dominant position are pressure on margins, use of competition restricting discounts and exclusive agreements.

### MARGIN SQUEEZE

Margin squeeze may arise in markets where

a vertically integrated company supplies raw materials both internally and to independent third parties which, in the downstream market, compete with the vertically integrated company. If the prices from Tine to the retailers are not sufficient to cover the processing costs given the price for the raw materials, this can result in a competition harming margin squeeze. In the long term, there is a danger that competitors will be forced to exit the market. In highly concentrated markets, the competition harming effects may be substantial.

### AMENDED REGULATIONS

The scheme for ex post control of purchase prices for raw milk on the dairy product markets was phased out on 1 July 2007. This scheme functioned mainly as a safety mechanism to limit competition restricting margin squeezes.

The NCA is responsible for enforcing the Competition Act in the dairy product markets, as it does in other markets. The phasing out of the ex post control of purchase price for raw milk has brought about a change in the NCA's work on enforcing the law in these

markets. This was expressed in the 2008 letter issued by the Ministry of Government Administration and Reform to the NCA, as follows: *"The NCA shall monitor competition in the markets for dairy products, and monitor developments in prices and margins in light of the phasing out of the scheme for ex post control of price equalisation for milk with effect on 1 July 2007"*. In 2008, the Norwegian government adopted a resolution to increase the NCA budget by an amount of NOK 1.5 million, transferred from the Norwegian Agricultural Authority, in connection with the phasing out of the scheme.

Norway has approximately 17,000 dairy farmers. The majority of these supply their milk to Tine, while approximately 500 supply their milk to Q-meieriene. Tine uses most of the milk purchased in its own processing plants, but also sells raw milk to competing companies. Within the processing chain in the dairy sector, milk is processed into products such as milk for consumption, flavoured milk products, cheese, butter, ice cream and powdered milk. Tine competes with Synnøve Finden, Q-meieriene and Normilk in this area. The products are mainly sold to grocery stores but also to catering, convenience stores, and industry.

■ ■ The NCA has established a gross margin surveillance scheme for the dairy product sector which came into effect on 1 January 2008. The purpose of this scheme is to monitor whether Tine's gross margins are so low as to constitute a competition harming margin squeeze. Part of the work in this surveillance scheme involves reviewing Tine's agreements with the grocery store chains to check discount and bonus schemes.

# Advertising Residential Properties on THE INTERNET

**When selling a residential property, the seller requires access to a variety of different products and services: Collection of information about the property, valuation, marketing, showings and organisation of the bidding, writing a contract, transfer of deed, settlement and taking out change of ownership insurance.**

■ ■ The supply side of the market is mainly composed of estate agents who offer all the above services as one package. Estate agents either have these services in-house or they are outsourced or subcontracted from other suppliers. There are also a number of commercial actors offering a range of services which do not make up the total package provided by estate agents. The provisions of the Estate Agency Act are based on safeguarding the interests of the consumer. However, property sellers are not obliged to make use of estate agents or lawyers. A person selling a property has the freedom to choose to purchase all necessary services via an estate agent or purchase a number of services while taking care of other tasks himself.

Residential property sellers rely on access to advertisement services. Advertisements can be placed in various media such as newspapers and the Internet. Advertisements on the major Internet portals, such as Finn.no, have grown in importance over recent years. Investigations carried out by the Norwegian Competition Authority (NCA) show that over 90 percent of all residential properties sold via estate agents are advertised on Finn.no. The Internet portals have established a practice whereby only estate agents, lawyers and, in certain cases, property developers are permitted to advertise residential properties on the portals. This practice of exclusion makes it difficult to sell properties without making use of traditional estate agent services. The Internet portals are thereby restricting the level of competition between estate agents and lawyers on the one hand and other service providers on the other. Moreover, the practice limits the purchasing power of residential property sellers in relation to the estate agents.

The NCA therefore aims to pave the way for increased competition by allowing a wider

range of service providers to offer their services to property sellers. If all providers are allowed to advertise on the Internet portals, the property sellers are free to choose from the full range of services on the market. This will open the door for new actors, allow-

ing them to compete with traditional estate agents, thereby enhancing competition on the market. Increased competition may result in reduced transaction costs for people selling residential properties, which may in turn result in lower property prices.

■ ■ The Ministry of Government Administration and Reform has requested an investigation by the NCA on the requirement for a regulation pursuant to section 14 of the Competition Act to regulate access to residential property advertisements on the Internet. The NCA has come to the conclusion that current practice restricts competition on the market for services related to the purchase and sale of residential properties, and has proposed to the Ministry a regulation which requires the Internet portals to provide all actors access to residential property advertisements on non-discriminatory conditions. The proposed regulation is sent on a public hearing, with a deadline in June 2009.

## IMPORTANT ISSUES IN 2008

### ■ ■ International payment cards

The NCA has initiated investigations of the market for international payment cards. The NCA is investigating whether various aspects of the international payment card system violate the prohibition in section 10 of the Competition Act of agreements which restricts competition. The investigation covers aspects such as the legality of the interchange-fee, which is paid by the acquirer to the issuing bank.

### ■ ■ Switching banks

The NCA has been a driving force behind the work to make it easier to switch banks. In May 2008, a new sectoral standard came into effect. The banks now have to take on a larger share of the work involved in transferring customer relationships from the old bank to the new. In January 2009, the financial portal Finansportalen launched a bank switching scheme on [www.finansportalen.no](http://www.finansportalen.no).

# Cartels are a Costly Burden on Society

**Illegal price-fixing and bid-rigging can lead to significant damage to society at large. One of the Norwegian Competition Authority's (NCA's) most important tasks is therefore to detect such illegal collusion.**

■ ■ Cartel activities is a collective term for various types of cooperation which, in a variety of ways, partly or wholly hinder market competition. In essence, it means two or more parties within the same market cooperating rather than competing. Instead of competing for contracts and to supply, as customers expect, members of a cartel enter into agreements to share out or divide markets, to determine the sizes of discounts or the level of prices, or the amount to bid for contracts. One consequence of cartel activities is higher prices. International studies have indicated that cartel activities can result in price increases of 10–30 percent. Governmental and municipal authorities annually procure over NOK 300 billion in goods and services. If parties colluded in public procurements, the loss would be considerable.

Given the extent and the potential for damage, the fight against cartels is attracting increasing attention in a number of countries. In recent years, the European Commission has imposed penalties for cartel activities totalling between 2 to 3 billion Euros per year. Prison sentences for participation in cartels have been introduced by an increasing number of countries. And unfortunately, there is no reason to expect Norway to be exempt from the risk of cartel activities.

## INVESTIGATIONS IN 2008

In 2008, the NCA secured evidence for three cases in five different locations. Fifteen formal statements have been taken in connection with the investigation of five different cases. The NCA has provided assistance to the EFTA Surveillance Authority (ESA) by securing evidence in three different locations in connection with two international cases. These cases will be processed by the ESA.

The results of the NCA's investigations come from analyses and evaluations of secured evidence and statements. This can be a time-

consuming process and cases are seldom settled in the same year they are opened. In 2008, the NCA has adopted a decision or submitted a report to the police on the following cases:

- Borregaard Industries Ltd. and Brenntag Nordic AS were fined NOK 1.6 million and NOK 1.3 million respectively for illegal sharing of the market for technical acetic acid in Norway over a number of years. Technical acetic acid is used in industries such as fishing and oil and gas.
- The plumbing companies Oslo VVS Service AS and Håkonrune Rør AS were fined NOK 500,000 and NOK 250,000 respectively for illegal collusion on tenders in connection with the delivery of a tender for the reconstruction of sheltered housing in the City of Oslo. The two companies had agreed on a pricing strategy whereby Oslo VVS Service AS priced their tenders (for all components and the total) exactly 7 percent higher than the prices tendered by Håkonrune Rør AS.
- Two health centres in Bergen were instructed to end price cooperation during tender competitions.
- Two contractors in Nordland were reported to the police in Bodø for tender collusion.

## EFFECT OF THE NCA'S LAW ENFORCEMENT

It is not easy to measure the effect and efficiency of control measures. The NCA set up its own control unit at an early stage to monitor the regulation of illegal competition. Over the past 20 years, more than 40 cases have been reported to the prosecuting authorities and decisions have been made that imposed penalties and seizures representing significant amounts of money on a Norwegian scale. The prohibitions

in the Competition Act and the NCA's active control measures are well-known among businesses and their legal advisors. It is essential for it to be common knowledge that the NCA closely monitors all indications of serious violations of prohibitions with the full force required. It is hoped that this serves as an important and necessary deterrent. See also page 14 for the result of the Norwegian deterrent survey.

#### INFORMATION INITIATIVES AND TELEPHONE LINE FOR TIPS

In 2008, the NCA held a number of seminars for small and medium-sized companies in cooperation with the Confederation of Norwegian Enterprise. The purpose of these seminars was to enhance knowledge of the prohibitions in the Competition Act and of the immunity and leniency schemes for cartel activities. The NCA receives an increasing number of tips via its telephone line – between 20 and 30 tips each month in 2008. Many of these have provided relevant information in competition cases.

#### FUTURE INITIATIVES AND ACTIVITIES

The NCA has made the detection of cartel activities its top priority. In 2008, the Ministry of Government Administration and Reform granted NOK 4.4 million in extra funding towards the work to strengthen enforcement of the Competition Act. These funds have been spent on reinforcing the investigation department with new recruits, investments in infrastructure, information measures, expertise and economic analyses and surveys. One of the measures made possible with the new funds was the development of a modern data laboratory for analysis of electronic evidence. The NCA has excellent foundations upon which to sustain the effective deterrent represented by its efficient and vigilant enforcement of competition law. The NCA's efforts to detect and investigate cartel activities will be sustained and intensified in 2009.

#### INVESTIGATIVE WORK

ACTIVITY	2005	2006	2007	2008
Securing evidence – cases/locations	2/7	2/4	2/6	3/5
Depositions (formal statements) – cases/statements	1/53	2/7	3/12	4/12
Assistant to the ESA/European Commission	0	1/2	0	2/3

#### REPORT TO THE POLICE

ACTIVITY	2005	2006	2007	2008
Reports submitted	1	2	0	1
Cases closed	5	1	0	3
Cases still under investigation by Økokrim	4	5	5	2

#### PENALTIES, SECTIONS 10 AND 11

ACTIVITY	2005	2006	2007	2008
Decisions regarding illegal cooperation (cartel), Section 10	0	0	2	3
Decisions regarding abuse of dominance, Section 11	1	0	1	0

# Safeguarding Competition for Public Procurement

The Public Procurement Complaints Board (also known as KOFA) is a national complaints board which decides whether public awarding bodies have violated the public procurement rules. The main purpose is to get the greatest value from society's resources.



■ ■ The public sector in Norway procures goods and services for vast sums every year. The public procurement regulation is intended to ensure equal treatment for all suppliers, and that the procurement processes are transparent, predictable and can be effectively reviewed. The rules have also been established to demonstrate that public bodies maintain a high level of integrity, thereby generating trust among society that public procurement is performed properly.

KOFA handles complaints of violation of the procurement rules. The board's secretariat is placed, administratively, under the Norwegian Competition Authority (NCA). Although KOFA and the NCA are responsible for the enforcement of two different sets of rules, they

have a common purpose: the efficient utilisation of society's resources. Both sets of rules are essential for the prevention of financial crime, such as corruption. Many of the corruption cases detected in recent years involve illegal appropriation of public funds and cases where the parties have failed to carry out a tender process.

KOFA and the NCA work together to create a common centre of expertise to meet the challenges to society posed by financial crime. An example of cooperation is the loan of a lawyer from the NCA to KOFA to help increase knowledge of the public procurement rules inside the NCA. KOFA has noted a considerable public need for knowledge of how the rules are applied, and receives numerous requests for guid-

## CASE STATISTICS 2003–2008

YEAR	COMPLAINTS	DECIDED	REJECTED	VIOLATIONS	NON-VIOLATIONS
2003	268	182	76	51	24
2004	287	248	104	80	10
2005	287	260	134	71	27
2006	158	176	50	79	29
2007	155	217	48	118	36
2008	222	171	40	65	38



ance. KOFA and the NCA therefore cooperate on spreading knowledge among awarding bodies about both the procurement rules and the Competition Act, particularly with respect to illegal collusion on tenders. In 2008, KOFA held a seminar for awarding bodies on corruption in public procurement. The NCA and KOFA have also begun cooperating with the Agency for Public Management and eGovernment.

**PENALTIES FOR ILLEGAL DIRECT PROCUREMENT**

In 2008, KOFA imposed three administrative fines for illegal direct procurement, bringing the total number of fines imposed by the board to four (after the board was granted the right to impose administrative fines on 1 January 2007). An illegal direct procurement is a procurement which has not been announced in accordance with the public procurement rules. Illegal direct procurement is deemed the most severe violation as such procurement completely evades the requirement for competition, which is the main purpose of the rules. In 2008, the complaints board received 26 complaints regarding illegal direct procurement, several of which were lodged by political parties and others who felt that the board should impose fines for what the complainants regarded as illegal direct procurement.

The high number of complaints about illegal direct procurement clearly indicates that the knowledge that this is a serious violation of law, subject to penalties, has increased over the past few years. The complaints board does not have the authority to investigate cases where there is a suspicion that an awarding body has neglected to announce a procurement. This means that not all illegal direct procurement cases go to KOFA. Without the authority to investigate, the complaints board relies on complaints from suppliers, organisations, politicians and other parties regarding procurement which should have been announced.

**RECORD ADMINISTRATIVE FINE FOR THE NORWEGIAN CORRECTIONAL SERVICES**

The Norwegian Correctional Services, region East, was fined NOK 1.5 million on 31 October 2008. The complaints board concluded that the Correctional Services were guilty of illegal direct procurement as they had failed to document that only Østfold Energi AS could supply remote heating due either to technical conditions or because the company had exclusive rights. The complaints board found that the Correctional Services were grossly negligent in directly awarding a contract without any competition.

**VIGILANT PURCHASERS CAN DETECT TENDER COLLUSION**

■ ■ On a number of occasions, government or municipalities purchasers have detected illegal cooperation between suppliers. The NCA has now issued a check-list to help purchasers prevent – and detect – violations of the Competition Act.

■ ■ This check-list is a somewhat simplified version of the “Guidelines for fighting bid rigging in public procurement,” recently published by the Organisation for Economic Cooperation and Development (OECD). Purchasers in the public sector play an important role in the fight against competition crime. They are often very knowledgeable of the market, have close contact with a number of suppliers and are able to compare different tenders with each other. They therefore are in the perfect position to detect deviations. The check-list provides advice to purchasers as to how they can facilitate a good tender process which prevents illegal cooperation among the tenderers. It also highlights possible warning signals to which purchasers should pay attention.

**BUDGET AND ACCOUNTS – KOFA**

	2007	2008
<b>BALANCE SHEET (NOK)</b>		
Allocated budget	6 324 000	5 039 000
Expenditure	6 285 000	5 116 000
<b>Balance</b>	<b>39 000</b>	<b>- 77 000</b>
<b>REVENUE FROM FEES</b>		
Budget	193 000	201 000
Fees	1 134 830	1 127 000
<b>Excess income</b>	<b>941 830</b>	<b>926 000</b>
<b>REVENUE FROM PENALTIES</b>		
Penalties	935 000	3 665 000



# Human Resources

■ ■ The Norwegian Competition Authority has a total of 102 employees, including those on leave. The table presents the distribution of positions within the NCA for women and men as of 31 December 2008.

POSITION	TOTAL	WOMEN	MEN
Managers	20	7 (35 %)	13 (65 %)
Senior advisers	30	9 (30 %)	21 (70 %)
Advisers	27	15 (56 %)	12 (44 %)
Higher executive officers	20	14 (70 %)	6 (30 %)
Executive officers	3	3 (100 %)	0 (0 %)
Trainees	2	1 (50 %)	1 (50 %)
<b>Total</b>	<b>102</b>	<b>49 (47 %)</b>	<b>53 (53 %)</b>

## MANY EMPLOYEES WITH SHORT TERM OF SERVICE

A number of employees have left the NCA since 2003 due to the move to Bergen. The NCA therefore has numerous employees with short terms of service. 40 % of employees have worked for the NCA for 2 years or less, while 42 % have a term of service between 2 and 5 years. Only 18 % have a term of service of 5 years or more. In 2007, corresponding figures were 46 %, 33 % and 21 % respectively. Turnover for 2008 was 15 %. The NCA has experienced a significant decline in turnover compared with the figure of 20 % for 2007. In total, 14 persons have resigned from the NCA in 2008. The average age of employees is 38. The NCA also has two apprentices who are not included in the calculation of average age.

## PROGRAM FOR DEVELOPMENT OF COMPETENCIES

In order to strengthen the level of competencies at the NCA, a comprehensive program was introduced in 2006. The program has three pillars:

- Employees learning by experience, solving cases, taking part in training and self-tuition.
- External and internal lecturers to provide basic in-house training in the field of competition.
- Development of specialised expertise in competitive economics and competition law, outsourced.

In addition to in-house seminars involving a range of legal and economics subjects, the NCA has organised numerous courses in subjects related to investigations, some focusing on how to secure evidence and take statements. To mention one example from the outsourced training program, a number of NCA employees completed a post-graduate course in competition law and economics at King's College in London in 2008. Further, the NCA has had a number of activities related to

management development where senior employees have taken part in management courses held by AFF (Administrative Research Fund) and where middle managers have taken part in an in-house development program.

## A HIGH NUMBER OF QUALIFIED APPLICANTS

The NCA has published 14 job advertisements in 2008. On average, each position attracted 25 applicants. The NCA recruited 26 persons during the year, of which 14 were women and 12 were men. The NCA has good access to qualified applicants for positions such as executive officers/higher executive officers for both economists and lawyers. However, it has proven difficult to recruit and retain lawyers with experience in competition law and economists and lawyers with managerial experience. The NCA has also recruited students as summer interns, providing an insight into the work of the NCA and aiming to increase the level of interest in working for the organisation among graduates. 140 students applied for the summer intern positions in 2008. Two apprentices commenced two-year apprenticeships in the autumn of 2008. One apprentice started with office work and the other was allocated to the ICT service department.

## A HIGH LEVEL OF EXPERTISE

The NCA has numerous employees with higher education. 74 % of employees are educated as economists or business economists, or are qualified lawyers. Six NCA employees have a Ph.D. The NCA's chief economist is a professor of economics.

## SICKNESS ABSENCE

The NCA has signed the Agreement on a More Inclusive Workplace, and is actively involved in measures to reduce absence due to sickness. Absence due to sickness in 2008 totalled 2.6 percent compared with 5.38 percent in 2007. The figure for men remains lower than for women, although the figure for women has also seen a reduction since 2007.

## EQUAL OPPORTUNITIES

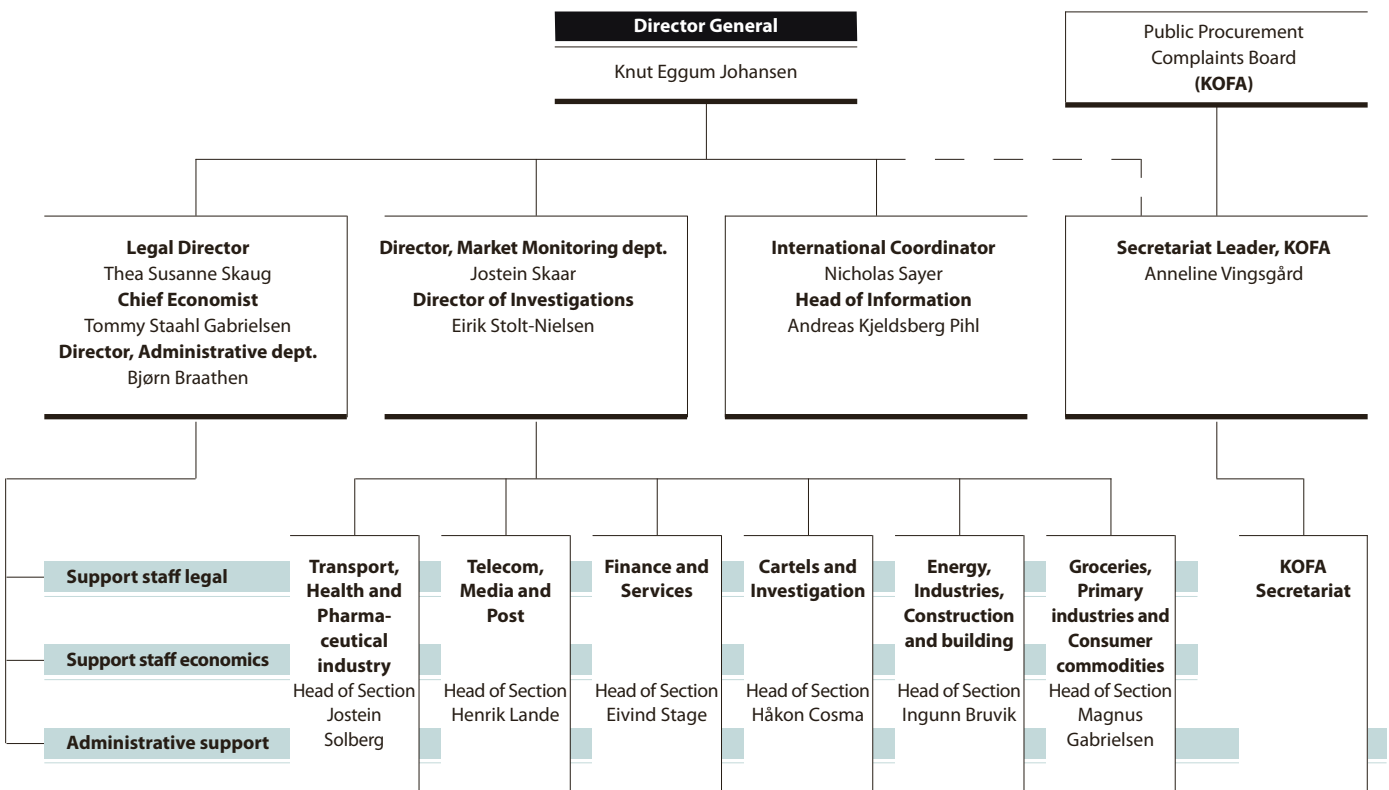
The NCA maintains a sharp focus on equal opportunities for all internal and external recruitment for all positions, particularly when recruiting to a managerial position. The NCA's human resources policy also targets recruitment of persons with an immigrant background, and this is monitored throughout all recruitment processes.





# Organisation

AS OF JUNE, 2009





# Case Statistics

## CASES RECEIVED

	2005	2006	2007	2008
Notifications of mergers and acquisitions	623	872	561	444
Complaints and tips related to violation of law/anti-competitive conduct	162	91	58	54
Requests for identification of public regulations detrimental to competition	28	19	15	21
Cases for public enquiry	195	194	211	186
International cases	116	138	181	120
Administrative and other issues	547	625	261	249
The "Skattefunn" compensation scheme				
<b>TOTAL</b>	<b>1 671</b>	<b>1 939</b>	<b>1 287</b>	<b>1 074</b>

Note 1: Simple requests made to the Competition Authority regarding anti-competitive conduct are answered without being registered as separate complaints.

## CASES CLOSED

	2005	2006	2007	2008
Interventions against mergers and acquisitions	6	2	5	4
Interventions against anti-competitive conduct	1	0	2	4
Formal letters regarding public regulations detrimental to competition	6	2	5	3
Written submissions of significance	61	68	58	42
Rejections of requests for intervention	41	55	36	27
Administrative fines – failure to submit or late submission of notification of mergers and acquisitions	6	66	17	9
Resolutions regarding obligation to report information to the Competition Authority	9	3	4	0
Decisions regarding maximum fares for taxis	2	0	1	1
Resolutions regarding the "Skattefunn" compensation scheme		442	4	3

## FINES

	2005	2006	2007	2008
Violations of the Competition Act			45 000 000	3 650 000
Violations of the obligation to notify mergers and acquisitions	60 000	1 850 000	610 000	235 000
Incomplete or wrong information provided to the NCA upon request			30 000	

Note 2: With effect from 1 July 2008, the parties can decide when to send a notification, so long as they do not start to implement the concentration before it has been notified to and reviewed by the NCA.



# Budget and Accounts

## BUDGET AND ACCOUNTS - NORWEGIAN COMPETITION AUTHORITY (AMOUNTS IN NORWEGIAN KRONER)

	NOTE	2006	2007	2008
<b>BALANCE SHEET</b>				
Allocated budget		79 025 000	84 661 000	88 929 000
<b>EXPENDITURE</b>				
<b>Salaries</b>				
Market surveillance		33 005 000	36 376 000	39 956 000
Information		1 451 000	1 687 000	1 613 000
Administration		9 860 000	9 577 000	9 881 000
<b>Total, salaries</b>		<b>44 316 000</b>	<b>47 640 000</b>	<b>51 450 000</b>
<b>GOODS AND SERVICES</b>				
EDP and archives		15 264 000	11 521 000	13 214 000
Informasjon		1 736 000	1 415 000	1 794 000
Premises	3	4 275 000	12 377 000	9 143 000
Training		2 171 000	1 981 000	3 254 000
Recruitment		423 000	1 084 000	1 040 000
Travel and meeting activities		4 393 000	3 028 000	3 875 000
HSE measures		497 000	518 000	636 000
Miscellaneous	4	5 942 000	5 097 000	4 402 000
<b>Total, goods and services</b>		<b>34 701 000</b>	<b>37 021 000</b>	<b>37 358 000</b>
<b>TOTAL EXPENDITURE</b>		<b>79 017 000</b>	<b>84 661 000</b>	<b>88 808 000</b>
<b>BALANCE</b>		<b>8 000</b>	<b>0</b>	<b>121 000</b>

Note 3: The increase in the cost of premises from 2006 to 2007 is mainly due to expenses for reconstruction of the premises in Bergen. In addition, the NCA had to cover extra costs related to moving out of premises in Oslo. The NCA incurred reconstruction costs in 2008 also. In addition, the NCA leases housing for employees who commute.

Note 4: Other operating expenses comprise office stationery, newspapers, postage, severance pay and consultancy.

# Changes in the Competition Act

## ■ ■ AUTOMATIC PROHIBITION OF IMPLEMENTATION

Effective from 1 July 2008, mergers and acquisitions which are required to be reported in accordance with the Norwegian Competition Act are prohibited from being implemented before the Norwegian Competition Authority (NCA) has completed processing the case. It is now up to the parties involved to decide when to report a concentration to the NCA. Once a concentration has been reported to the NCA via a so-called standardised notification, the prohibition on implementation applies until the expiration of the deadline by which the NCA can require the parties to submit a complete notification. This deadline is 15 working days after notification. If the NCA requires a complete notification, the prohibition on implementation applies until the NCA notifies that it may intervene in the case. The NCA may also extend the stand-still obligation until the case has been closed. The purpose of this amendment to the legislation is to ensure efficient control of concentrations.

## ■ ■ EXEMPTION FROM THE PROHIBITION OF IMPLEMENTATION

In connection with the legal amendment mentioned above, the NCA has presented a proposal for a regulation on exemption from the prohibition of implementation for certain types of acquisition of securities. The regulation provides that public bids or a series of transactions in securities listed on a regulated market can be partly implemented prior to the expiry of the deadline. The exemption applies provided that the

concentration is notified to the NCA immediately, and that the voting rights attached to the securities are not exercised. The proposed regulation was submitted for hearing in December 2008.

## ■ ■ DECREES BY THE KING IN COUNCIL

With legal amendment, a Decree by the King in Council to permit a concentration for matters of principle or major social importance no longer needs to wait for a Ministry decision on a complaint. The purpose of the amendment is to increase efficiency and simplify case management.

## ■ ■ COMPETITION LAW IS MADE VALID ON SVALBARD

As of 1 July 2009, competition law will also apply on Svalbard. This was adopted by the Royal Decree of 17 October 2008, after a hearing in the autumn resulted in broad support for the proposal. The legislation will apply without any particular local adaptations, but with an exemption for regulations regarding adaptation to the EEA Agreement, as it does not apply on Svalbard.

## ■ ■ ENHANCED ENFORCEMENT OF THE COMPETITION ACT

On 12 December 2008, the Ministry of Government Administration and Reform submitted a proposal for a hearing on a legal amendment to strengthen the enforcement of the Competition Act. The Ministry's proposal included an expansion of the area of application for leniency to include penal provisions pursuant to section 30 of the Competition Act. It was also included a

proposal to restrict the right of inspection of documents prepared in connection with an application for leniency, so that those applying for leniency are not more exposed to civil damage suits than those who do not apply for leniency. The Ministry also proposes a provision which strengthens the protection of anonymity for companies or persons who tip the NCA of a violation of the Competition Act. The proposed legislation is mainly based on input from the NCA to the Ministry of Government Administration and Reform.

## ■ ■ EXEMPTION FOR VETERINARIES ON CALL

By Royal Decree of 19 December 2008, an exemption was made from sections 10 and 11 of the Competition Act for veterinarians on call, valid until 2010. The regulation replaced the provisional exemption for agreements regarding clinical veterinary duty applicable to the end of 2008. The basis for the exemption is that the Norwegian Association of Local and Regional Authorities and the Norwegian Federation of Veterinarians entered a nationwide framework agreement for veterinarians on call, in order to fulfil the obligation of municipalities to provide a 24-hour call veterinary service pursuant to the Act relating to veterinarians and other animal health personnel. The municipalities took over responsibility for veterinary on-call service from the government on 1 January 2008. This exemption from the Competition Act is not expected to be necessary in the long term, and the exemption has therefore only been provided for a limited period of two years.

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