



■ ANNUAL REPORT 2009

## Increased access and lower prices in the football market

The distribution of football rights among several providers has helped to create a broader product selection and lower prices – for the benefit of consumers.

[Read more on page 43 »](#)



## Competition gives more money for health

The Nord-Trøndelag Health Trust is saving NOK 2 million per year as a result of competition in patient transport.

[Read more on page 34 »](#)



## Top priority on cartel detection

The Authority has ordered discontinuation and fines in three cases of illegal cooperation which restricted competition.

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## Competition in the taxi market

Several county administrations have made changes to increase competition as a result of comments from the Competition Authority.

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## International cooperation is important for competition

## Safeguarding competition in public procurement

## Message from the Director



### Competition policy works!

«Our competition legislation was well equipped to meet the financial crisis and its effects, and more importantly, our competition policy should remain in place.»

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## Short facts

Established: **1994**  
Main office: **Bergen**  
Employees: **104**  
Budget 2009: **NOK 83,7 mill.**  
Case load 2009: **1046**



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## About the Norwegian Competition Authority and KOFA

**The Norwegian Competition Authority is working to promote healthy competition for the benefit of consumers, business and industry**

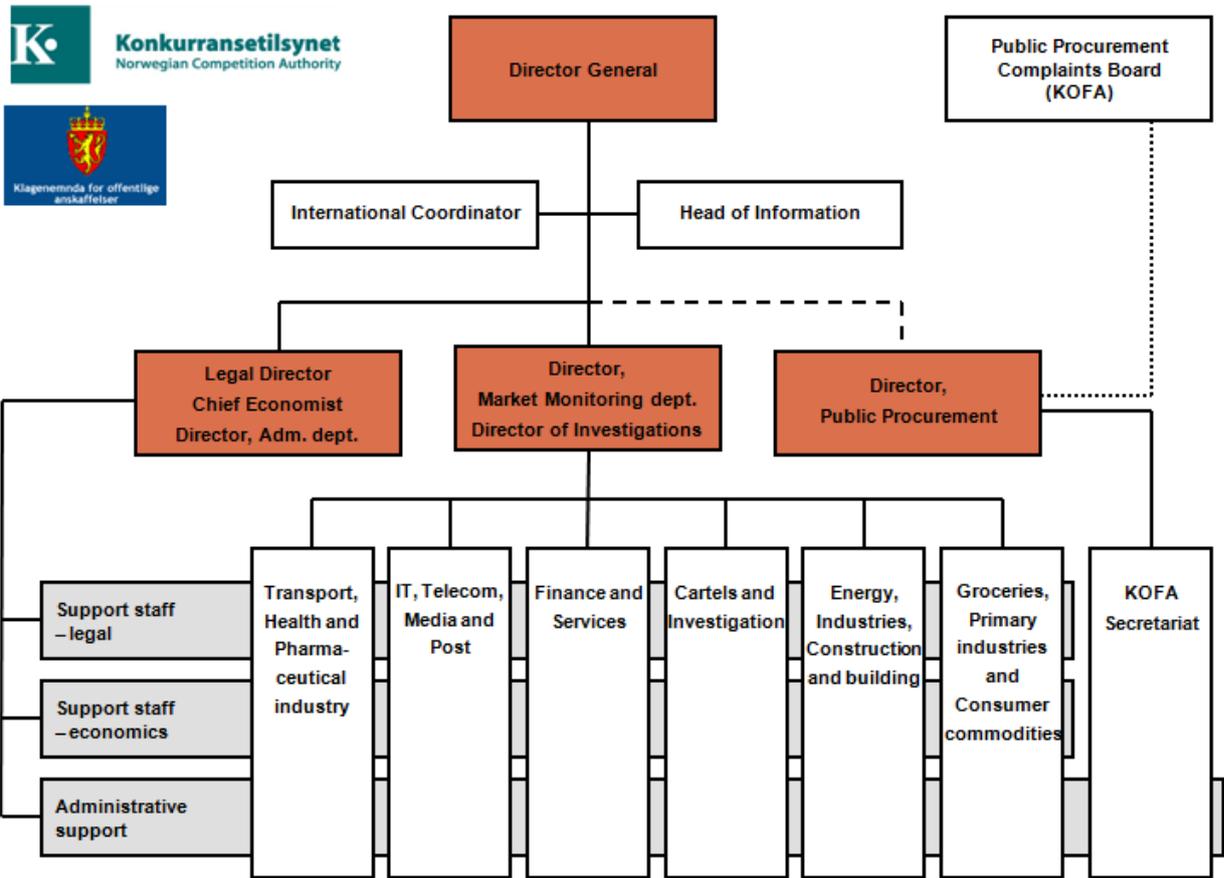
**The Norwegian Competition Authority's** principal task is to enforce Norway's Competition Act:

- 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.

**The Public Procurement Complaints Board (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 board's secretariat is placed, administratively, under the Norwegian Competition Authority in Bergen.



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## Competition policy works!



Director General Knut Eggum Johansen

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One year ago the OECD countries were suffering from the worst depression since World War II. Considerably uncertainty reigned about how long the recession would last and how deep it would be. Even though Norway was better placed than many other countries, we also experienced a rapid drop in production and burgeoning unemployment, particularly in the building and construction industry.

In cooperation with the competition authorities in the other Nordic countries we took a closer look at the sort of challenges our authorities would be facing as a result of the financial crisis. The conclusion was clear: our competition legislation was well equipped to meet the financial crisis and its effects, and more importantly, our competition policy should remain in place. The European Commission was also clear on this point. Competition Commissioner Neelie Kroes emphasised on several occasions the importance of not relaxing competition policy and not embarking on destructive competition in government support in a short-sighted attempt to support industry in our individual countries.

The message of not repeating the mistakes made during the 1930s depression hit home and the crisis measures imposed were targeted and effective. The package of measures adopted in Norway helped to ensure that we are now on a path towards a more normal economic growth rate and that unemployment is low as compared to many other countries.

The Competition Authority experienced the financial crisis in several different ways. There was a substantial reduction in the number of ordinary reports about company mergers: down from 440 in 2008 to 293 in 2009. The implementation ban was challenged on several occasions, even though the Competition Act provides for dispensation if circumstances so dictate.

Another area is the ban on illegal cooperation. While it is important to return rapidly to the budgetary rule for using oil funds, some industries are still struggling. In this type of situation it may be tempting to cooperate on prices and share markets rather than to compete. The Competition Authority was quick to realise that the package of measures imposed would present the Competition Authority with a few challenges. In order to get the best possible value from each krone in the package, it was important to have fully functional competition in respect of public tenders.

This is why the battle against cartels and illegal cooperation has been a high priority during the past year. Bid-rigging and other competition crime results in reduced economic growth and higher prices, and at the end of the day it is consumers and taxpayers who foot the bill.

This initiative will be continued with full force in 2010. However, our experience in applying the current Competition Act has shown us that we still face challenges in achieving a convincing deterrent effect. During the year ahead we will therefore undertake targeted work designed to put into place a leniency programme that fulfils its purpose. At the same time we will be working to harmonise fine levels and practices with those of the EU.

The importance of having efficient competition policy is illustrated in this annual report by four specific examples. We have taken a closer look at the tangible effects of one decision pursuant to the prohibition in Section 10 of the Competition Act, one decision pursuant to the merger rules in Section 16, the results of identifying a public measure pursuant to Section 9e and finally one example of what competition authorities can achieve by engaging in constructive dialogue. The results of these evaluations can be summarised relatively easily: competition policy benefits consumers and business that face tough international competition!

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## The Competition Authority's sections and most important cases in 2009

Section	Main challenges	Most important results
<p><b>GROCERIES, PRIMARY INDUSTRIES AND CONSUMER COMMODITIES</b></p> <p>Head of Section Magnus Gabrielsen</p>	<p>The grocery market is extremely concentrated. Norwegian consumers have access to around 20 different chains of retail stores, but all of these are associated with one of the four national chain groups, i.e. Norgesgruppen, Coop, Ica or Rema 1000.</p> <p>Concentration in retail chains has increased during the past few years. It is difficult to enter the retail chain market.</p> <p>For many important products, there is also a high concentration of suppliers. The dairy market is one example of this.</p>	<p><b>Section operations during 2009:</b></p> <ul style="list-style-type: none"> <li>■ monitored the agreements entered into by the grocery chains with leading market suppliers and started analysing the competitive situation in a selected product market.</li> <li>■ notified the grocery chains about extension of their obligation to report annual agreements with leading market suppliers up until 2015.</li> <li>■ intervened against the merger between Validus AS and Sunkost ASA.</li> <li>■ continued to monitor gross margins in the dairy sector in order to prevent price activities that are detrimental to competition.</li> <li>■ advised the County Governor of Hedmark about taking competition into consideration in connection with the assessment of dispensation from the Shopping Centre Regulations.</li> </ul>

<p><b>FINANCE AND SERVICES</b></p> <p>Head of Section Eivind Stage</p>	<p>Customers in the finance markets, which comprise banks, savings and insurance, seldom switch providers. Many customers find it difficult to become informed about this market. During the financial crisis it has become even harder to switch banks, a development which makes it particularly important for competition to work.</p> <p>The payment transfer markets offer special challenges, particularly for international payment cards.</p> <p>In the public service pensions market the municipalities and other public bodies rarely make use of competitive tendering. This limits competition and makes it difficult for new providers to become established.</p>	<p><b>Section operations during 2009:</b></p> <ul style="list-style-type: none"> <li>■ monitored the payment card markets and highlighted key competition problems in these markets. The international card companies have altered their agreements in a way that makes it easier to compete. Consultative statements on competition considerations have been followed up with the introduction of new rules on payment transfers.</li> <li>■ highlighted the fact that public service pensions are, in practice, purchased for indefinite periods and without advertisement according to the procurement regulations. Has asked for clarification as to whether such pension agreements are covered by the regulations.</li> </ul> <p><b>Other important results:</b></p> <ul style="list-style-type: none"> <li>■ New rules enable customers to change banks using BankID, without having to visit the bank personally. The Finance Portal also has its own service for switching banks on its website.</li> <li>■ The Competition Authority's proposal to open online portals for private residential property advertisements</li> </ul>
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		was adopted. These regulations came into force on 1 January 2010.
<p><b>IT, TELECOMMUNICATIONS, MEDIA AND POST</b></p> <p>Head of Section Henrik Lande</p>	<p>Monitoring the competitive situation in the broadband markets, including problems associated with broadband and TV connections.</p> <p>Monitoring markets in the telecoms sector, including markets in which the Norwegian Post and Telecommunications Authority's (PT's) ex-ante regulations are being wound up, and focussing in particular on breaches of Section 11 of the Competition Act and the links between broadband capacity and traditional telephone services.</p> <p>Monitoring international developments in the ICT markets.</p> <p>Monitoring developments relating to the Net Book Agreement.</p>	<p><b>Section operations during 2009:</b></p> <ul style="list-style-type: none"> <li>■ published a report about the broadcasting markets, expressed its opinion in a hearing about the provision obligations of general broadcasters, provided a statement about the need for individual station choices, provided a statement about competition in the digital terrestrial network, and participated in a working group on freedom of choice and diversity for TV viewers.</li> <li>■ cooperated with the PT about the latter's regulation of the market for access to and call origination in public mobile communications networks.</li> <li>■ commissioned a report about public authorities that make purchases in the software markets and followed international developments in these markets.</li> <li>■ assessed deregulation of the postal markets, including several consultative statements.</li> <li>■ assessed a report on developments in the book market and recommended winding up the fixed price</li> </ul>

		<p>system in the Net Book Agreement.</p> <ul style="list-style-type: none"> <li>■ rejected a claim for a compulsory licence submitted by Pharmaq AS.</li> </ul>
<p><b>ENERGY, INDUSTRIES, CONSTRUCTION AND BUILDING</b></p> <p>Head of Section Ingunn Bruvik</p>	<p>Ownership of energy production in Norway is highly concentrated around Statkraft, and many energy producers are intertwined in a network of ownership relationships. In addition, bottlenecks in the transmission network have resulted in reduced competition in some areas. The Competition Authority is also concerned that competition among those involved in the market would not occur on equal terms, since many monopoly owners of energy networks are integrated energy companies that also produce and sell energy to end users. Competition in the end user market could be strengthened by more price-conscious and active consumers.</p> <p>Risk of illegal price cooperation and collusive tendering: Many businesses involved in the building and construction trade say that they are aware that illegal price cooperation takes place between parties operating in their trade. Many consumers experience problems with the builders' market.</p>	<p><b>Section operations during 2009:</b></p> <ul style="list-style-type: none"> <li>■ engaged in continuous monitoring of the wholesale energy market in cooperation with the NVE (the Norwegian Water Resources and Energy Directorate) as part of its work designed to detect any abuse of market power in the energy market. In 2009 the Competition Authority undertook a closer assessment of several types of monitoring tools.</li> <li>■ thoroughly assessed several mergers in the energy market, but none of these warranted intervention.</li> <li>■ issued several consultative statements, including one about amendments to the Industrial Licences Act/rental scheme and one about advanced measuring and control systems.</li> <li>■ maintained the energy prices list and commenced work to make some changes in functionality.</li> <li>■ reinforced focus on the building and construction markets through own projects.</li> </ul>

		<ul style="list-style-type: none"> <li>■ made a decision about fines totalling NOK 7 million for two parties involved in illegal cooperation in tendering for bridge improvements in Steinkjer.</li> <li>■ participated in a working committee on building services, chaired by the Norwegian Consumer Council.</li> </ul>
<p><b>TRANSPORT, HEALTH AND PHARMACEUTICAL INDUSTRY</b></p> <p>Head of Section Karin Stakkestad Laastad</p>	<p>A greater degree of transparency in the taxi market would help to increase competition and make it easier for consumers to become informed about the purchase of services. The Competition Authority has drawn up proposals for new regulations relating to fare calculations and maximum prices for taxi transport which will represent an important contribution towards this work.</p> <p>Competition in the aviation market is a priority area.</p> <p>There may be competition-related challenges in the market for private health services which are receiving public funding, and this could affect the quality and efficiency of the health services.</p>	<p><b>Section operations during 2009:</b></p> <ul style="list-style-type: none"> <li>■ submitted comments to the Ministry of Health and Care Services about the scheme for public operating subsidies and refunds for physiotherapists.</li> <li>■ drew up and circulated consultative documents containing new draft regulations relating to fare calculations and maximum prices for taxi transport .</li> <li>■ fined Taxi Midt-Norge for breaching the prohibition of competition-restricting cooperation and ordered the company to stop such activities.</li> <li>■ submitted comments to the Municipality of Oslo about the competition-restricting effects of a decision adopted by the City Council in respect of the taxi industry.</li> <li>■ fined the Norwegian Coach Owners' Association for breaching the prohibition of competition-restricting</li> </ul>

		<p>cooperation and ordered the company to stop such activities.</p>
<p><b>CARTELS AND INVESTIGATION</b></p> <p>Acting Head of Section Erling Espeskog</p>	<p>Top priority placed on serious breaches of the prohibition of price cooperation and collusive tendering.</p> <p>Knowledge about the leniency programme is to be improved.</p> <p>The work that has been commenced in the building and construction market is to be continued with parties in the trade, as well as public purchasers.</p>	<p><b>Section operations during 2009:</b></p> <ul style="list-style-type: none"> <li>■ secured evidence in two cases at seven different locations.</li> <li>■ held several meetings with public purchasers, focusing in particular on the detection of cartel activities. A checklist has been drawn up for use by purchasers, with a view to preventing collusive tendering and for making it easier to detect such cooperation in a purchasing situation.</li> <li>■ presented contributions at several seminars where the topics covered included collusive tendering and the leniency programme.</li> <li>■ continued internal training in respect of securing and analysing electronic evidence.</li> </ul>

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## International cooperation is important for competition



- The Competition Authority has an extensive international network.

Norway shares common source material with the EU in the field of competition law. There is therefore much to be gained from cooperating with the 29 other EEA countries, and with the EU. This applies despite the fact that Norway is not a member of the EU.

The Competition Authority works internationally on regulatory matters, individual cases, internal training and development and in those networks that form the basis for our contact with parties from other countries. Making comparisons with other countries is also an instrument for gauging whether we do things right.

The Competition Authority also places priority on training by participating in international conferences and courses. We do this in order to maintain high levels of expertise in respect of developments in competition law in inter alia the EU. One of several examples of this type of training is the courses run by Kings College in London, which are regularly attended by the Authority's candidates.

Much of the Competition Authority's international contact base is maintained and developed through international networks. A list of the Competition Authority's main international networks and cooperation is provided in the box below.

### **Overview of the Authority's international networks and cooperation**

**Nordic competition authorities.** Annual meetings at which experiences are exchanged. Close, regular contact is also maintained. Can exchange confidential information. Preparation of joint Nordic reports on current topics of joint Nordic interest.

**EU/EEA.** The Competition Authority assists the Ministry of Government Administration, Reform and Church Affairs with the implementation of EEA regulations in Norwegian law in accordance with our obligations under the EEA Agreement. The Authority represents Norway on the advisory committee for issues involving competition and mergers, where the European Commission and the EFTA Surveillance Authority (ESA) consult on specific matters. The Authority assists the ESA and the Commission in securing evidence in Norway.

- **European Competition Network (ECN).** A forum for cooperation for the European Commission and the competition authorities in the EU's member states. The Competition Authority is not a formal member, but attends meetings about policy issues and receives information that is exchanged in the network.
- **European Competition Authorities (ECA).** Network for EEA competition directors. The Authority also participates in working groups within this network.

**OECD.** The Authority is a member of the OECD's Competition Committee and two working groups which fall under this committee.

**International Competition Network (ICN).** Intended to increase the level of international cooperation and contribute towards the harmonisation of regulations.

The box shows that the OECD is one of several important international networks. Details of the Competition Authority's contributions to the OECD's Competition Committee or its sub-committees Working Party No. 2 on Competition and Regulation and Working Party No. 3 on Co-operation and Enforcement are provided in the table below.

#### The Competition Authority contributions to the OECD Competition Committee

OECD-meeting		Title
<b>February meetings</b>	OECD Competition Committee	<b>Crisis and competition policy</b> Speech by Director General Knut Eggum Johansen
	OECD Global Forum on Competition	<b>Competition policy, industrial policy and national champions</b> -- Contribution from Norway --
<b>June meetings</b>	OECD Competition Committee	<b>Roundtable on two-sided markets</b> -- Note by the Delegation of Norway -
<b>October meetings</b>	OECD Competition Committee	<b>Annual report on competition policy developments in Norway</b> -- 2008 --

	<b>Roundtable on generic pharmaceuticals</b> -- Contribution by the Delegation of Norway --
Working Party No. 3 on Co-operation and Enforcement	<b>Roundtable on the application of antitrust law to state-owned enterprises</b> -- Norway --
Working Party No. 3 on Co-operation and Enforcement	<b>Discussion on corporate governance and the principle of competitive neutrality for state-owned enterprises</b> -- Norway --
Working Party No. 2 on Competition and Regulation	<b>Margin squeeze</b> -- Norway --

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## Important changes in the law in 2009



- New regulations require Internet portals to provide access to anyone wishing to advertise residential properties under non-discriminatory conditions.

**Regulations relating to the appointment of administrators.** In cases where the Competition Authority sets conditions before a merger may be implemented, the Authority may appoint an administrator to ensure that the parties adhere to the conditions. New regulations containing more detailed rules about this procedure were adopted by the Ministry of Government Administration and Reform on 15 September 2008 and came into force on 1 January 2009. These regulations contain clear guidelines for the appointment of such administrators and their obligations, along with the parties' obligations towards an administrator in connection with the fulfilment of his duties. The regulations make the situation more predictable for both administrators and the parties.

**Exemption from the implementation prohibition.** In connection with the automatic suspension to all notifiable concentrations, effective from 1 July 2008, the regulations laid down by the Competition Authority on 9 March 2009 contain rules for exemption from the implementation prohibition for the acquisition of certain types of securities. These regulations enable partial implementation of public acquisition offers, or a series of securities transactions which take place in a regulated market, to take place before the deadline has elapsed. Such exemption is conditional on the transaction being reported to the Competition Authority immediately and also on the voting rights of the securities not being exercised. These regulations came into force on 1 April 2009.

**Svalbard subject to the Competition Act.** From 1 July 2009 the Competition Act applies on Svalbard. This decision was passed by the King in Council on 17 October 2008. The Act applies without any special adjustments being made, although an exemption has been made in respect of the provisions relating to compliance with the EEA Agreement since it does not apply to Svalbard.

**Regulation of online residential property advertisements.** In response to a proposal made by the Competition Authority, the Ministry of Government Administration and Reform laid down new regulations on 9 September 2009 which require Internet portals to provide access to anyone wishing to advertise residential properties under non-discriminatory conditions. Internet portals such as Finn.no had previously allowed only professionals to advertise private residences. These new provisions mean that private individuals can now place residential property advertisements, thus allowing them to choose whether or not they wish to carry out more of the sales work themselves. These regulations came into force on 1 January 2010.

**Enhanced enforcement of the Competition Act.** On 12 December 2008 the Ministry of Government Administration and Reform submitted a proposal for consultation about a legislative amendment designed to boost enforcement of the Competition Act. In order to reinforce the leniency programme, the Ministry proposed extending the scope of leniency to also include penal provisions in Section 30 of the Competition Act. Proposals were also presented to restrict the right to inspect documents prepared in connection with leniency applications, so that anyone applying for leniency would be no more exposed to civil action for damages than someone who does not apply for leniency. The Ministry has also presented proposals for regulations designed to strengthen the protection of anonymity for companies or private individuals who tip off the Competition Authority about breaches of the Competition Act. This draft legislative amendment is largely based on input provided by the Competition Authority to the Department of Government Administration and Reform. The process is continuing.

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## Top priority on cartel detection



- In 2009 the Competition Authority focused particularly on the building and construction trade and the risks of illegal collusive tendering.

**The misuse of dominant positions and cooperation that restricts competition are prohibited under the Norwegian Competition Act.**

### Activities

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#### **Crisis for society - increased risk of cartels?**

Illegal price collusion and collusive tendering can result in extensive damage for the community. One of the most important tasks of the Competition Authority is therefore to detect such collusion.

In the early part of 2009 it became clear that the Government wanted to find a remedy for the crisis in the building and construction market. Public building and highways projects valued at a total of almost NOK 20 billion were advertised during the early spring under a package of measures designed to combat the financial crisis. At the same time the Government promised the Competition Authority NOK 400,000 in extra funding.

Speaking at a press conference at the offices of the Competition Authority when this promise was announced, the Minister of Government Administration and Reform, Heidi Grande Røys, said: "We have to make the best possible use of society's money. We will catch these villains so that this money can be spent on goods and services."

**The relationships among the resources spent on processing cases under Sections 10/11, 16 and 9 e in 2009 are shown in the figure on the right.**

(Registration commenced in January 2009, and we are reserving ourselves against the possibility that there may be some uncertainty during the first year as the system is being tested.)

In connection with the major competitive tenders that were advertised during the spring of 2009, the Competition Authority placed special focus this year on the building and construction trade and the risks of illegal collusive tendering. Illegal collusive tendering can include the following:

- Fictitious bids: the companies agree that one of them will submit the lowest bid. The others submit bids containing high prices or terms that would not be accepted.
- Omission: a company that would normally submit a bid fails to do so.
- Bid rotation: the companies take it in turns to submit the lowest bids.
- Market sharing: the competitors share the market between themselves. This can be done either geographically or along product lines.

Detecting cartels, including illegal collusive tendering, is a top priority for the Competition Authority.

Cartel activity is a collective term for various types of cooperation which, in a variety of ways, either partly or fully impede market competition. This means that two or more parties in the same market cooperate on something over which they should have competed. For example, instead of competing for contracts and deliveries, as customers expect, the members of a cartel enter into agreements relating to market sharing, discounts and prices and how much to bid for contracts.

One of the consequences of competition crime is higher prices. International studies have indicated that illegal collusion can result in price increases of 10-30 per cent. Each year the state and municipal authorities purchase goods and services worth over NOK 300 billion. If the parties involved collude on public procurement the losses can be considerable.

### **Improving knowledge about the Competition Act**

Throughout 2009 the Competition Authority has been working towards increasing the knowledge within Norwegian trade and industry about the Competition Act. Early in the year, a checklist was prepared for use by public purchasers to help detect illegal collusive tendering (bid-rigging). This checklist is the result of international cooperation under the auspices of the OECD in which the Competition Authority has played an active role. The checklist is available on the Authority's website and has been marketed at a number of meetings with

purchasers, including KS (the Norwegian Association of Local and Regional Authorities), KOFA (the Public Procurement Complaints Board), several private procurement fora and managers responsible for procurement and tendering in major municipalities and projects. This has been one of the Authority's most important initiatives in 2009.

One important initiative continued after 2008 is the provision of information about the leniency programme.

Cartel activities can be penalised with large fines, but the first company to break ranks and notify the Competition Authority will be allowed to escape a fine. Other cartel participants may have their fines reduced if they cooperate during the investigation.

This arrangement is called leniency, and experience acquired from the EU, the USA and other countries indicates that a well-functioning leniency programme is the most important tool for detecting cartel activities.

Unfortunately, surveys conducted on behalf of the Competition Authority show that business managers are not sufficiently aware of this programme. The Competition Authority has therefore initiated several information campaigns about the programme. In 2009 one of these campaigns on the Airport Express Train showed both that cooperation among competitors can be penalised and that there are ways to extract oneself from such cooperation. Please refer to [www.konkuransetilsynet.no](http://www.konkuransetilsynet.no) for further information and to view the film that was used during the campaign.

During the course of the year we have been working on spreading the message about the risks of illegal collusive tendering and the opportunities for leniency by giving a number of talks at our own seminars, and as guests at other seminars.

### **Main focus on the building and construction trade**

The most important activities of the Authority involve seeking out various types of competition crime, and as mentioned the building and construction trade has been a key focus during the past year. Projects within the Competition Authority have been designed to allow the Authority to familiarize itself with the parties involved in the various markets that together constitute the building and construction trade. This work is ongoing.

### **Strengthening the Authority's investigation expertise**

The work to strengthen the Authority's expertise in conducting investigations was divided into two parts in 2009.

First, specialist employees responsible for processing digital evidence attended further courses in order to ensure that the Authority is able to benefit fully from the equipment used for dealing with such evidence. Second, special courses on taking statements were organised for

investigators and other personnel who could become involved in investigating cases for the Authority.

### Securing evidence in two cases

In 2009 the Competition Authority secured evidence related to two different cases in seven different locations against a total of five companies. Nine formal statements were taken in connection with the investigations of these two cases.

### Investigative work

Activities	2006	2007	2008	2009
Securing evidence § 25 – cases/locations	2/4	2/6	3/5	2/7
Depositions (formal statements) § 24 – cases/locations	2/7	3/12	4/12	2/9
Assistant to the ESA/European Commission – cases/locations	1/2	0	2/3	0

### Other important activities

#### Case against Tine

The action brought by Tine against the State through the Competition Authority, because Tine would not accept a fine of NOK 45 million, was heard by the Oslo District Court during the autumn of 2008. In a judgement handed down on 25 March 2009 the Court overturned the decision made by the Competition Authority. The Authority has appealed against this judgement to the Borgarting Court of Appeal. This appeal comprises both an assessment of the evidence and interpretation of the law.

#### Monitoring dairies

Monitoring of gross margins in the dairy sector was continued in 2009. The purpose of this activity is to check whether Tine's gross margins are low enough to constitute a margin squeeze that would be damaging to competition and in breach of Section 11 of the Competition Act

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## Results

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During the course of 2009 the Authority has ordered discontinuation and fines in three cases of illegal cooperation which restricted competition.

The Competition Authority was quick to establish its own control unit to follow up illegal conduct. During the past twenty years over forty cases have been reported to the authorities and decisions have been made to

impose fines and confiscations worth large sums of money by Norwegian standards. The prohibitions in the Competition Act and the Competition Authority's vigorous control activities are well known among business owners and their legal advisers. It is important that they know that the Authority follows up signs of serious breaches of the prohibition regulations by using whatever force and weight deemed to be necessary. It is thought that this has an important and necessary deterrent effect.

The results of the Competition Authority's investigations follow analyses and evaluations of evidence and statements. This can be a time-consuming process which often means that cases are not decided in the same year as when they were opened. During the course of 2009 the Authority made decisions in the following cases relating to breaches of the prohibition regulations:

- Taxi Midt-Norge AS was fined NOK 300,000 for breaching the law in its bid for the transport of patients in Nord-Trøndelag. This case concerned illegal collusive tendering among the company's 270 licence holders. In the same decision the Authority ordered the cessation of these illegal activities. Afterwards, the Competition Authority wrote a letter to the health authority about how they should formulate calls for tender to ensure real competition for contracts.
- Grunnarbeid AS and Gran & Ekran A/S, two contractors in Trøndelag, were fined NOK 5 million and NOK 2 million respectively for engaging in illegal collusion in individual bids they had submitted for the maintenance of seven bridges in Steinkjer. The Competition Authority believes that the two companies were not actually competing and that the two bids were submitted in order to increase the price and create the impression of competition. The two companies have denied this and have sued the Competition Authority. The case appeared before the courts in April 2010.
- Norges Turbileierforbund (the National Coach Owners' Association) was fined NOK 400,000 for breaching the law by encouraging its members to increase their prices. Several articles in the Association's membership magazine supported price increases and among other things made suggestions about the extent of such increases and how it could be accomplished by using a price calculator that was made available to its members. In its decision the Authority ordered the cessation of these illegal activities. The Association has rejected this and has sued the Competition Authority. The case appeared before the courts in February 2010.

#### Penalties regarding illegal cooperation and abuse of dominance

Decisions	2006	2007	2008	2009
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Decisions regarding illegal cooperation (cartel) - § 10 – fines and interventions – cases/companies	0	0	2/4	2/2
Decisions regarding illegal cooperation (cartel) - § 10 – fines only – cases/companies	0	1/1 *	0	1/2
Decisions regarding illegal cooperation (cartel) - § 10 – interventions only – cases/companies	0	1/2	1/2	0
Decisions regarding abuse of dominance § 11 – interventions only – cases/companies	0	1 *	0	0

\* The decision is a violation of both § 10 and § 11

### Future activities

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In many ways 2009 has not been a very typical year. The financial crisis has affected economic activity, and this can be seen in the Competition Authority's statistics. Work has started to ensure that the Government's package of measures is used as intended without competition crime reducing its impact, and this work is still ongoing. For example, the results of the investigative projects into the building and construction trades have provided the basis for new projects in 2010. For several years the Competition Authority has placed top priority on the detection of cartels, and it has spent this time developing expertise and providing trade and industry with information about the law, prohibition regulations and leniency. This initiative will be continued, particularly in conjunction with the work being carried out on combating illegal collusive tendering.

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## Mergers and acquisitions



### Activities

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#### **Fewer company mergers in 2009**

The Competition Authority received 294 notifications of mergers in 2009, compared to 444 notifications in 2008. Requests for complete notifications were issued in 8 cases (15 in 2008).

### Results

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The Competition Authority has processed all the merger notifications it received within the stipulated deadlines.

#### **Intervention against health foods acquisition**

The Competition Authority decided in 2009 to intervene against the merger between Validus AS and Sunkost ASA. The Authority concluded that this merger would result in a substantial restriction of competition in the market for health foods sold at specialist health foods stores and that it would severely restrict competition in the wholesale market for sales of dietary supplements/natural cosmetics/hygiene products to such stores. Reduced competition in these markets would have resulted in higher prices, a limited range of goods and reduced internal efficiency to the detriment of consumers. An appeal against this decision was submitted to the Ministry of Government Administration and Reform, but the appeal was subsequently withdrawn. Consequently the decision stands.

#### **Laboratory analyses**

Eurofins Danmark AS was allowed to purchase Lantmännen Analycen AB conditional on its selling its subsidiary, LabNett AS, to an external,

independent party. In 2009 the Authority appointed an administrator to conduct the sale of LabNet AS so that Eurofins was able to comply with this condition.

### **Prohibition of implementation**

July 2008 saw the introduction of a new type of offence that will be sanctioned by a fine: automatic prohibition of implementation, making it illegal to implement a merger that is subject to compulsory notification pursuant to the Competition Act until the Competition Authority has processed the case. The first cases to be heard after this rule was introduced in 2009 are the following:

- A fine of NOK 150,000 for breaching the law was imposed on RS Platou A/S for failing to wait for the legally required waiting period to elapse when the company purchased a controlling stake in Glitnir Securities A/S.
- Likewise a fine of NOK 100,000 for breaching the law was imposed on Advokatfirmaet Steenstrup Stordrange A/S (a law firm) for failing to wait when it merged with Advokatfirmaet DLA Piper Bergen DA (a law firm).

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## Other important activities and results in 2009



- The Competition Authority rejected a request for a compulsory licence for a vaccine for Pancreas Disease (PD) which affects farmed fish.

### Activities

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#### **The financial crisis and competition policy**

The Competition Authority's Letter of Allocation specifies that the Authority should assess the way in which the financial crisis affects the targeting of competition policy. The Authority should adapt its strategy, allocation of resources and specialist priorities on the basis of such an assessment.

The competition authorities in Norway, Sweden, Denmark, Finland, Greenland and Iceland undertook a joint assessment of how the current and previous financial crises have affected competition policy and the lessons that can be drawn from them. This work, carried out under the leadership of the Competition Authority, was presented in a report entitled [Competition Policy and Financial Crisis – Lessons Learned and the Way Forward](#). This report contains advice and recommendations about the enforcement and targeting of competition policy.

The report emphasises the importance of having firm competition policy and strict enforcement of competition rules, even in times of crisis.

It was published on Thursday 10 September at a press conference held in Reykjavik where representatives of the competition authorities of the Nordic countries met to attend their annual cooperation meeting.

### **Guidelines for preparing economic analyses**

In connection with dealing with cases subject to the Competition Act, the Competition Authority received a large and increasing number of economic analyses based on empirical studies and economic modelling. In order to facilitate placing weight on such analyses in its assessments, the Authority has drawn up Guidelines for Preparing Economic Analyses presented to the Authority. These Guidelines are purely for guidance purposes and have no binding effect on the Competition Authority's administrative procedures.

### **Best Practices on the Conduct of Merger Control Proceedings**

The Competition Authority has drawn up [Best Practices for the Conduct of Merger Control Proceedings](#), which have also been translated into English. The purpose of these Best Practices is to offer a better understanding of the way in which the Competition Authority conducts merger control proceedings pursuant to Chapter 4 of the Competition Act. They are intended to help the parties involved obtain the best possible knowledge about the process in advance, and to ensure the best possible cooperation during the administrative proceedings in order to achieve a focussed and efficient process. They are based on the Authority's experience in conducting merger control proceedings.

### **Expertise relating to quantitative analyses**

The Competition Authority has been working systematically to develop its expertise on quantitative analyses linked in particular to market definition. In 2009 two projects were prioritized. One project relates to the use of questionnaires to obtain information for use in, for example, market definition. Since the Authority has different deadlines for different cases it is important to find methods that can be concluded by the Authority's deadlines. This project was aimed at finding solutions, and it considered other countries' experience. The other project concerned the fuel market. This project led to the Authority developing its expertise in obtaining and processing large quantities of data for use in econometric studies. It also led to the development of expertise in the use of geographical information systems and connecting them to commercial data, e.g. price information.

[To the top](#)

## **Results**

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### **Internet portals open for private residences from 1 January**

Internet portals such as Finn.no have previously allowed only professionals to advertise private residences. In response to a proposal made by the Competition Authority, new regulations were adopted in September 2009 which require Internet portals to provide access to anyone wishing to advertise residential properties under non-discriminatory conditions. These regulations came into force on 1 January 2010.

With effect from the beginning of the year, Internet portals are thus required to allow access to anyone wishing to advertise residential properties on the Internet, i.e. private individuals can now advertise properties on the residential pages of such portals.

It has always been legal to sell properties without using an estate agent, but vendors have been obliged to use an estate agent or lawyer when wishing to place an advertisement on an Internet portal. The new regulations will enable people to have a real choice about whether or not they wish to undertake some of the sales work independently. The new rules will result in increased competition for estate agents and lawyers and a greater degree of freedom for consumers. This could lead to lower costs when selling residential properties, something which will benefit both purchasers and vendors.

### **Compulsory licence rejected**

The Competition Authority rejected a request from Pharmaq AS for a compulsory licence. A compulsory licence is a licence issued by a public authority permitting the exploitation of patented inventions without the consent of the patent holder. Pharmaq had asked the Competition Authority to grant the company a licence to exploit a patent held by Intervet International B.V. Intervet owns patents for the production and sale of i.a. a vaccine for Pancreas Disease (PD) which affects farmed fish. Pharmaq argued that they had developed a better vaccine than the existing one and that Intervet had not managed to supply adequate quantities of vaccine to cover the demand of the market.

Section 47 of the Norwegian Patent Act allows the authorities to grant compulsory licences if such is in the interests of the public. The current regulations are enforced by the Competition Authority.

A compulsory licence represents a dramatic encroachment of the rights of the patent holder, and intervention in respect of such is governed by strict terms and conditions. After undertaking an overall assessment the Competition Authority decided that the conditions for granting a compulsory licence were not fulfilled in this case. Among other things the Authority found no documentary evidence to suggest that the supply problems and quality differences were as extensive as claimed by Pharmaq. An appeal against the Competition Authority's decision has been submitted to the Norwegian Ministry of Government Administration and Reform.

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## General deterrent effects of the Authority's enforcement policy

### Activities

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#### **Online information**

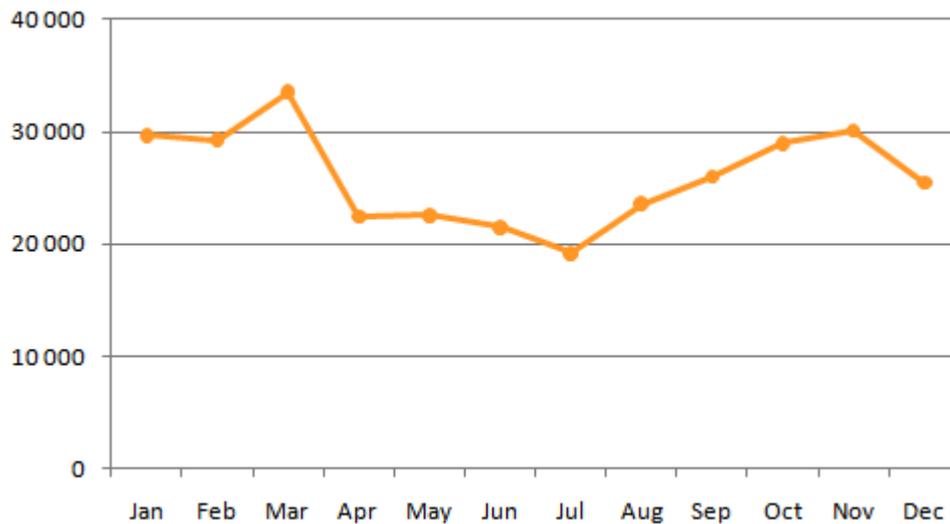
The Competition Authority's website serves as an important source of information for the public, trade and industry and the media. Each week, news about competition is presented on [konkurransetilsynet.no](http://konkurransetilsynet.no), and the most important news is translated into English.

Mergers that are under review are regularly reported in both Norwegian and English.

The Competition Authority's website conforms with the quality requirements that have been stipulated for public websites, and it was awarded six out of six possible stars in a quality assessment conducted during the autumn of 2009 by Difi (the Norwegian Agency for Public Management and eGovernment). Of the 46 directorates and authorities assessed, the Competition Authority received the highest average rating. The website fulfilled absolutely all the criteria under the "availability" category.

Almost 265,000 people visited [konkurransetilsynet.no](http://konkurransetilsynet.no) during the course of 2009. This website receives an average of 26,000 hits per month. Its information about energy prices was accessed by 195,105 unique users in 2009, and is by far the most popular service at [www.konkurransetilsynet.no](http://www.konkurransetilsynet.no).

#### **Unique visitors at [www.kt.no](http://www.kt.no) per month in 2009**



### The Competition Authority in the media

Media coverage is important for providing large numbers of people with information about the Authority's activities. The Competition Authority generally receives significant media attention, but the number of items in the media was considerably lower in 2009 as compared with previous years. Many of these items featured in media with broad coverage and readers who constitute the Authority's key target groups.

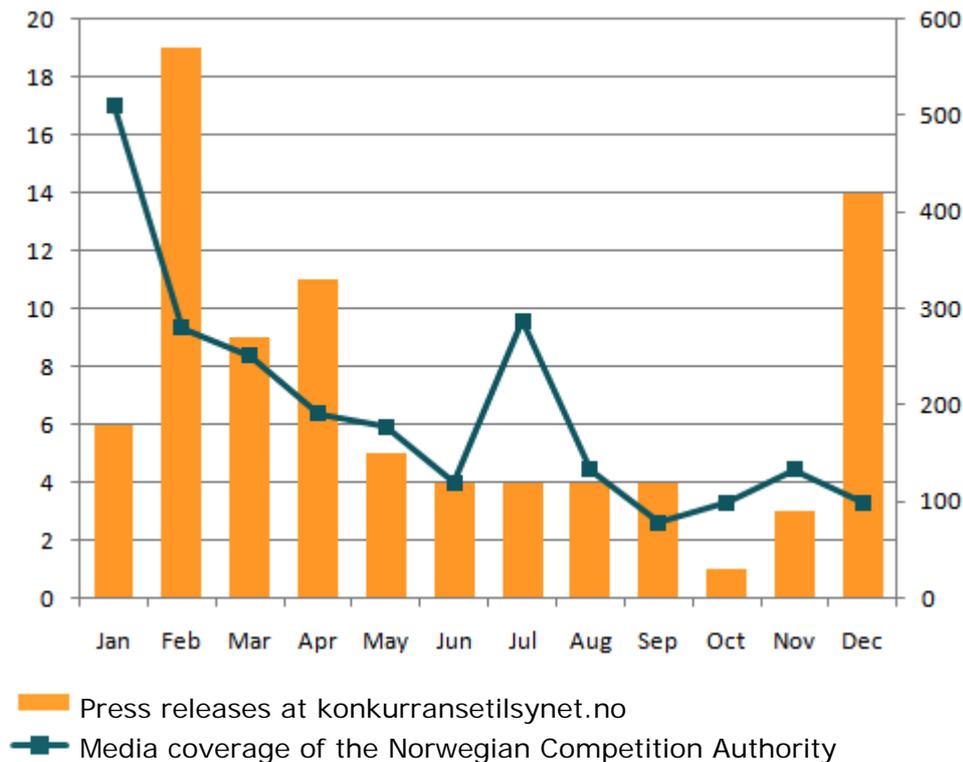
### Norwegian press releases and media coverage

	2008	2009
Press releases at konkurransetilsynet.no *	85	88
Media coverage of The Norwegian Competition Authority **	3183	2360

\* KOFA-related articles not included

\*\* Media references to the list of energy prices not included

### Press releases and media coverage per month in 2009



### Information campaign on leniency

An information film about illegal cooperation and leniency was shown on the Oslo Airport Express Train between downtown Oslo and the main airport during the period 2 February - 1 March 2009. The primary aim of this campaign was to increase awareness of the leniency programme among company managers and trade organisations and to encourage more people to report illegal activities.

430,000 people travelled on the Airport Express Train during the period when the Competition Authority's cartel film was being shown on the Train's screens. According to the Train's sales agent, around half of these - 215,000 - could be defined as business travellers. The primary target group for the film was managers of small and medium-sized companies.

This campaign and the anti-cartel battle received excellent coverage on TV2's news broadcast on 29 January 2009. Director of Investigations Eirik Stolt-Nielsen has linked the general message about the leniency programme to the Government's "crisis package" for the financial crisis. When such a large number of public tenders for building and construction work are issued over the course of a relatively short period of time, it is particularly important to be aware of the risk of illegal price-fixing and bid-rigging.

The message contained in the film shown on the Airport Express Train about competition crime and the leniency programme also featured in 10 other local, regional and trade media.

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## Effects of competition policy



- In February 2009, the Competition Authority submitted a new report on the status of competition in certain Norwegian markets.

Competition policy has both direct and indirect consequences and operates through many different mechanisms. While some measures will have relatively immediate effects, others will operate in a somewhat longer term. The indirect effects may be difficult to observe and measure, even if it is fairly obvious that they are there and that they might be substantial.

The direct effects of competition policy are those that occur directly and immediately following the imposition of competition policy measures in various different administrative fields. Intervention against cartel activities or abuse of a dominant position could have direct and immediate effects in the markets concerned. The same applies to matters where the competition authorities intervene and stop or stipulate terms for a merger - or for that matter when they do not intervene.

### Evaluation of specific cases

While working to make the results of its work more visible, the Competition Authority has evaluated four cases and investigated their effects:

#### **Patient transport: Taxi Midt-Norge AS – fined for breaching the law and ordered to cease activities**

The Nord-Trøndelag Health Trust is saving NOK 2 million per year after the Competition Authority intervened against illegal cooperation on bidding to supply patient transport.

[Read more >>](#)

**Efficiency benefits of the Gilde-Prior merger**

The Competition Authority has started an evaluation to find out the extent to which the efficiency benefits and restructuring costs claimed by the parties in connection with this merger have been realised. The Authority will also consider whether or not the cost savings that have so far been achieved are merger-specific and relevant from an economic welfare perspective.

[Read more >>](#)

**Competition in the taxi market: comments sent to the county administrations**

A number of county administrations have made changes to increase competition following comments from the Competition Authority.

[Read more >>](#)

**Dialogue with the Norwegian Football Association about the Football Agreement**

The distribution of football rights to several media providers has helped to create a wider range of products and lower prices - for the benefit of consumers.

[Read more >>](#)

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## Competition gives more money for health



- Lower expenditure on public transport will make more money available for the treatment of patients.

### **The Nord-Trøndelag Health Trust is saving NOK 2 million per year as a result of competition in patient transport.**

About NOK 2 billion is spent annually on patient transport in Norway. Most of this is related to taxi journeys. The Regional Health Authorities (RHF) are responsible for the procurement of patient transport. The health authorities use competitive tendering procedures to procure public transport in order to stimulate competition and thus reduce their expenditure on patient transport. Lower expenditure on public transport will make more money available for the treatment of patients.

Both the licensing authorities (the county administrations) and the purchasers (RHF) are able to influence the degree of competition in tenders for patient transport. The county administrations may, for example, increase competition by allowing more taxi central dispatchers in an area and by increasing the number of taxi licences. The health authorities can influence the competitive situation through how they formulate the call for tender and by acting as vigilant purchasers who keep an eye out for signs of illegal collusive tendering. In March 2009 the Competition Authority sent a letter to the county administrations and the Regional Health Authorities informing them about various methods for increasing competition.

Where there is competition, illegal cooperation among competing taxi businesses can weaken or eliminate competition. The Competition Authority can then order the termination of such illegal behaviour and impose fines and other sanctions on the cooperating businesses.

In September 2006 Taxi Midt-Norge AS – a countywide dispatch service that organises taxi licence holders in the county of Nord-Trøndelag – submitted a tender on behalf of all the taxi dispatchers and taxi licence holders in a competitive tendering procedure advertised by the Central Norway Regional Health Authority for the purchase of patient transport for Nord-Trøndelag. The bid thus involved collusive tendering (bid-rigging) among all the taxi licence holders in Nord-Trøndelag.

The Central Norway Regional Health Authority submitted a complaint about this collusive tendering to the Competition Authority. After considering all the information relating to the case, the Competition Authority decided that the bid submitted by Taxi Midt-Norge AS in the competitive tendering procedure constituted illegal collusive tendering in breach of Section 10 of the Competition Act. Notification of a fine for breach of the law was issued in December 2008, and the final decision was made in March 2009. Taxi Midt-Norge was fined NOK 300,000 for violation of the Competition Act. The Central Norway Regional Health Authority conducted a round of tenders in 2008 with a view to entering into new contracts and having new suppliers from 1 January 2009. However, the round was cancelled because the bids submitted would have resulted in considerably higher costs than budgeted for patient transport in Nord-Trøndelag. The Central Norway Regional Health Authority therefore engaged in direct negotiations with several potential providers in the market.

This resulted in three providers receiving contracts for patient transport in various parts of Nord-Trøndelag during the period 1 January 2009 to 31 December 2011, with the option for a 1-year extension. According to the Nord-Trøndelag Health Trust the savings achieved by having competing bids for patient transport amount to approximately NOK 2 million per year. The health authority has stated that the Competition Authority's notification of its intervention against Taxi Midt-Norge played an important part in gaining acceptance for the outcome of their negotiations with the various providers.

One important point in the Competition Authority's assessment of the cooperation via Taxi-Midt Norge was the question of whether the various taxi businesses were actual or potential competitors in the tender. The call for tender stipulated no requirements that bidders be able themselves to offer services to one or more municipalities, and each of the central dispatchers and licence holders could in principle submit bids for just parts of the tender. The Competition Authority therefore based its decision on the licence holders associated with the main county service being largely actual or potential competitors.

In a similar case in the county of Nordland, the health authority made greater demands with respect to capacity. In much of the county, there were no grounds for submitting more than one bid in the competition. In these areas the health authority would not have received more than one offer, even without cooperation through the countywide taxi

business. The Competition Authority therefore decided that there was no reason to intervene in the case in Nordland.

If little attention is paid to the effects on competition, then county administrations and the Regional Health Authorities must be prepared for transport services to be more expensive. If no arrangements are made for competition then the competition rules will not normally have a decisive impact either. If only one taxi company or one combination of such companies is able to submit a bid because of the terms of the call for tender, there will be no illegal collusive tendering to intervene against.

These examples from Nord-Trøndelag and Nordland illustrate well how important it is to create a good basis for competition through formulating the call for tenders, vigilantly carrying out competitive tendering procedures, and actively enforcing the Competition Act.

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## Efficiency benefits of the Gilde-Prior merger



- The Competition Authority evaluates the efficiency benefits of the 2006 Gilde-Prior merger.

The Competition Authority has been instructed by the Ministry of Government Administration and Renewal to evaluate the effects of competition policy, including decisions under Section 16 of the Competition Act. Candidates for such an evaluation might include specific mergers that have been either permitted or prohibited. Such an evaluation would primarily be intended to highlight the effects of competition policy. Furthermore, the experience after a merger that has been stopped or approved could provide the Competition Authority with a better technical basis for assessing future mergers.

In January 2006 Gilde Norsk Kjøtt BA (Gilde) and Prior Norge BA (Prior) entered into a merger agreement. [The Competition Authority decided to prohibit the merger](#), pursuant to the first subsection of Section 16 of the Competition Act.

[The Ministry of Government Administration and Renewal overturned the Competition Authority's prohibition of the merger](#). The Ministry was of the opinion that it was unlikely that any potential competition from Gilde as a result of entering the market for white meat would significantly discipline Prior's activities in this market. Nortura BA was the result of the merger between the Gilde and Prior cooperatives.

The parties asserted, during the Competition Authority's decision-making process, that the merger would result in two main types of efficiency benefits. First, integration of the two groups' activities would create synergies that would provide substantial cost savings. They also maintained that the merger would lead to efficiency benefits in the form of innovation and product development which would benefit

consumers. On the other hand, the parties said that the merger would also create restructuring costs.

Normally, when undertaking merger assessments, the Competition Authority operates on the premise that reduced competition and higher prices will result in lower efficiency. This is often referred to in the literature as slack or X-inefficiency. Slack means that companies use greater resources than are strictly necessary. Slack thus represents a welfare loss. The potential for slack means that a traditional estimate of deadweight loss would produce an under-estimate of the actual welfare loss associated with any price increases resulting from a merger.

There is nothing to indicate that a cooperative, where the producers own the company, would in itself result in greater spending. Any high costs that the companies could be expected to have would depend on the specific situation, good governance and not least pressure exerted by competition.

Generally speaking it is important for each cooperative to generate a profit that would be shared among the owners. If the profits are not sufficiently high there is a risk that the farmers might want to start supplying their products to other parties. Since low costs generate increased profits, low costs would be a means by which Gilde and Prior could prevent farmers from choosing to deliver their products to other parties.

The Competition Authority thought that the disappearance of potential competition from Gilde in particular would result in higher costs and lower efficiency in the merged company than Prior would have experienced if it had been subject to potential competition from Gilde. On this basis the Authority found that the merger would result in a welfare loss. Loss resulting from reduced competition was also weighed up against the cost savings cited by the parties.

When weighing up the losses and profits that would result from a merger and that would be relevant to making a decision at the time of the merger, only those cost savings that create a net increase in social welfare, that are merger-specific and that have been adequately documented are counted. The obligation to present adequate documentation rests with the parties involved. In the Competition Authority's assessment of the parties' claims, the Authority found that some of the cost savings could increase social welfare and be merger-specific. However, the documentation produced by the parties was incomplete. Consequently, there was considerable uncertainty about the claimed synergies, and they were not well-grounded in specific implementation plans.

The Competition Authority has therefore begun an evaluation of the extent to which the efficiency benefits and restructuring costs claimed by the parties in connection with the merger have been realised. The

Competition Authority will also consider whether or not the cost savings that have so far been achieved are merger-specific and relevant from an economic welfare perspective. The aim of such an evaluation is to provide the Competition Authority with a better basis for assessing the reasonableness of any efficiency benefits claimed in respect of future mergers and any restructuring and complexity costs that might be incurred.

The Competition Authority has received information from Nortura about the effects they have so far experienced. As part of this ongoing evaluation the Competition Authority will also look more closely at market developments in this area, including competition from the grocery chains' own brands, and also at developments in the competitors' market positions.

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## Measures designed to improve competition in the taxi market



- The Competition Authority aims to improve opportunities for consumers to compare prices.

### **Several county administrations have made changes to increase competition as a result of comments from the Competition Authority.**

The Competition Authority wishes to help improve the competitive situation in the taxi market and has on several occasions resorted to using the authority contained in Section 9 e of the Competition Act to draw attention to how public measures can affect competition in the taxi market.

In 2007 the Competition Authority sent two letters identifying anticompetitive effects of public measures for which the county administrations are responsible. The county administrations have wide-ranging licensing powers that determine how the taxi industry is organised in their individual regulatory districts. For example, the county administrations can decide whether or not there should be one or more taxi central dispatchers in a district, how many taxi licences to issue within a district, and to which central dispatcher new taxi licences should be linked, and they can establish regulations on price information.

In its comments the Competition Authority encouraged the county administrations to attach importance to effective competition when formulating licensing policy, and it referred to several possible measures for achieving this. For example, the Authority pointed out that the county administrations can permit new taxi central dispatchers

in a district, conduct an objective process for analysing the need for new taxi licences, determine upper limits for the share of licences in a district that can be linked to any single central dispatcher, require the provision of better price information and design taxi ranks so that customers have a real choice of taxi company.

The Competition Authority has evaluated the county administrations' follow-up of the issues identified. Some county administrations believe that long distances and a scattered population make conditions in their counties unsuitable for effective competition in the taxi industry. These counties have therefore not implemented measures designed to promote competition. Several other county administrations have made adjustments for increased competition in accordance with the Authority's comments. Several counties have helped to increase competition by permitting the establishment of several taxi central dispatchers in the same district. New central dispatchers have been set up in Bergen, Ålesund, Tromsø, Nedre Romerike, Asker/Bærum and Stjørdal.

Some county administrations have introduced measures against dominant services by introducing limits on how many licences in a district may be linked to a single central dispatcher. Such arrangements have been introduced in inter alia Bergen and Stavanger. Several county administrations have also commissioned independent surveys to assess the need for new taxi licences, and the number of taxi licences is increasing in several areas.

Several county administrations have pointed out that an obligation to use a double system calculation would make it easier to compare different offers as well as to determine afterwards whether a price charged is correct. It has turned out to be more difficult to make arrangements for the provision of price information and to physically alter taxi ranks to make it easier for customers to choose the cheapest taxi.

#### Better competition with more simplified taxi fares

In 2009 the Competition Authority drew up and circulated consultative documents containing [new draft regulations relating to fare calculations and maximum prices for taxi transport](#). The double system calculation is a new and easier to understand system for calculating the price of taxi services. The Competition Authority believes that these proposals, along with the provision of better price information at larger taxi ranks and in taxis will improve the opportunities for consumers to compare prices and make informed choices about providers, thus strengthening competition between those involved in the taxi market. These proposals have been circulated for consultation and the Authority is currently working on making a final decision about the matter.

Making arrangements for the provision of easily comparable price information also relates to matters that fall outside the jurisdiction of the county administrations. The physical adaptation of taxi ranks to accommodate price information and choice among taxi companies depends on cooperation between, for example, the municipality and the highway authority. The Competition Authority is participating in a working group with representatives from the Consumer Ombudsman, the Norwegian Consumer Council and the Norwegian Taxi Owners' Association which is working on solving problems associated with price information. This working group has drawn up templates for the presentation of taxi companies' prices that will be used on and in taxis, and at larger taxi ranks. The group is also working with the municipalities and the Norwegian Public Roads Administration to set up signs for price information at larger taxi ranks.

Efficient competition in the taxi market is important for consumers. Experience gained from the Authority's decision in 2007 related to patient transport in the county of Nord-Trøndelag shows that the level of expenses incurred by the Regional Health Authorities (RHF) for patient transport depends significantly on how well competition functions in the taxi market. It is therefore important for county administrations to continue to work on encouraging increased competition in the taxi market.

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## Increased access, lower prices and innovation in the football market



- Spreading media rights for football will benefit consumers in terms of availability, price and quality.

**The distribution of football rights among several providers has helped to create a broader product selection and lower prices – for the benefit of consumers.**

During the winter of 2007/2008 the Competition Authority entered into negotiations with the Norwegian Football Association (NFF) about the forthcoming sale of rights to Norwegian Premier League football for the period 2009-2012. In 2005 the Competition Authority considered the statutory basis for conducting collective and exclusive sales of media rights to Telenor and TV 2 for the period 2006-2008, although no decision was taken. On the other hand the Competition Authority was concerned that the continuation of exclusive sales in the next contractual period would result in negative competitive consequences to the detriment of consumers. In order to secure the most effective competition over rights, the Authority contacted the NFF both in writing and verbally and provided guidance on a number of specific points about the formulation of the competitive basis for the forthcoming sales process.

The Competition Authority was keen to ensure that if the rights were to continue being sold collectively by the NFF, then arrangements should be made so that they could be shared between several competing parties. In the opinion of the Authority this would help to promote competition between traditional broadcasters and not least between different distribution platforms. The Authority was of the opinion that such a dispersion of media rights would benefit consumers in terms of

availability, price and quality. The purpose of this evaluation is to investigate how the new Media Agreement has affected consumers according to these criteria.

### **Availability**

The media rights for 2009 to 2012 were sold to a number of different parties, including TV 2, Lyse Tele/Altibox, Schibsted and NRK. For the current period these rights have been dispersed among several competing providers, and as documented in the evaluation, this has resulted in both increased access to pay-TV and more matches on free-TV in 2009 than in 2008. It should be noted that increased availability has probably also meant that more viewers have actually seen Norwegian football in 2009, since there has been a substantial increase in both subscriptions for pay-TV/online TV and viewers of free-TV [1].

### **Prices**

When several parties compete for the same customers this normally results in lower prices and/or increased quality. The Competition Authority's analysis shows that in 2009 consumers were able to choose among several more matches than in 2008. At the same time prices have dropped and become more differentiated in respect of the various match products. The distribution of football rights among several providers and the subsequent competition has thus helped to create a wider product selection and lower prices for the benefit of consumers.

### **Quality - product development and innovation**

The Media Agreement has therefore resulted in a greater selection of football match products, particularly on the Internet and IPTV platforms. It is also interesting that IP technology has enabled consumers to have access to a range of new services, including a greater degree of interaction between consumers and providers and the opportunity to view clips from matches or whole matches after a match has been played. It can thus be argued that the new Media Agreement has served to encourage innovation in respect of the provision of football as a product and has extended the competition arena between traditional TV and online TV.

One essential condition that applies to this competition has been ensuring adequate quality of online TV services. As regards the online TV platform the Media Agreement has helped to promote technical developments that are making it possible to achieve better quality images by using adaptive streaming technology. Online TV providers have also made adjustments to ensure that the capacity of the underlying infrastructure can be used efficiently so that the Internet can cope with more simultaneous viewers without crashing. TV 2 and Schibsted have indicated that this appears to have worked well during the 2009 season.

According to a study, football broadcasts constitute the type of sports content that generates a high willingness to pay among TV viewers

[2]. This means that football is an excellent driver to motivate rights holders to undertake further development of broadband TV and online TV platforms. However, the online platform still lies some way behind traditional TV in respect of image quality and reliability of provision, although during the forthcoming years it is anticipated that these differences will reduce considerably. In the long term it will therefore also be possible for the Media Agreement to encourage competition between tenderers on the various different distribution platforms.

## Notes

[1] The Competition Authority has obtained information from market participants showing that there has been an increase in subscriptions in respect of both pay-TV/online TV and the number of viewers of free-TV.

[2] See Randi Hammervold and Harry Arne Solberg, "TV sports programmes – who is willing to pay?", *Journal of Media Economics* (2006).

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## The competitive situation in selected industries



- In the global and dynamic ICT-market, a form of innovation competition often occurs, where the winner may be left with a high market share until the next innovation is made.

### Activities

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#### **The ICT market**

The Competition Authority has commissioned an external report on the role of the public authorities in the ICT market. In addition to this report the Authority has undertaken its own review of the competitive situation in the software markets, and on this basis the Authority has considered the need to impose further measures to strengthen competition in the ICT market.

#### **The grocery market**

The Competition Authority is keeping a close eye on developments in the grocery market. Meetings have been held with the four grocery chains and the DLF (the Norwegian Grocery Suppliers Association). The Competition Authority is also cooperating with other European competition authorities through its membership of the ECN Food Subgroup. Comments have been sent out in accordance with Section 9 e of the Competition Act on an application for the establishment of a hypermarket. Tine's gross margins in the dairy markets have been calculated and assessed. The Competition Authority has also considered the need to impose further measures to strengthen competition in the grocery market.

#### **The TV market**

In the TV market, subscription figures have been obtained from Canal Digital, Viasat and RiksTV in order to follow developments and to obtain

a good basis for assessing platform competition and whether the companies are attempting to reduce competition.

#### **Other activities:**

##### **Membership of working committee – builders' services**

In 2009 the Competition Authority participated in a working committee for the services provided by builders, chaired by the Norwegian Consumer Council. The role of the Competition Authority on this committee has been to provide input when any proposals received have given rise to competition-related issues. Written input has been provided about transparency and price information in the market, as well as about expertise requirements and authorisation schemes. The Competition Authority and the working committee have advised i.a. that consumers should be aware of the fact that they can obtain quotations when purchasing the services of builders, something that is particularly important since such services are often complex.

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## **Results**

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### **Competition, free software and open standards**

Based on the priorities stipulated by the Ministry of Government Administration and Reform, the Competition Authority has been working for a long time on analysing the competitive situation in the software markets. The Authority has previously drawn up a report entitled "[Competition and Innovation in the Software Markets](#)." In this report the role of the public authorities in promoting innovation and competition in the software markets was discussed only briefly. For this reason Professor Nils-Henrik Mørch von der Fehr draw up another report in 2009 on behalf of the Competition Authority entitled "[Free Software – Some Fundamental Observations](#)." This report highlights the role of the public authorities as potential prime movers of competition in the software markets.

The Competition Authority believes that software markets are characterised i.a. as global and dynamic. In many cases there are network effects on the demand side, while at the same time the supply side experiences increasing returns to scale. In such markets a form of innovation competition often occurs, where the winner may be left with a high market share until the next innovation is made. A company which has a monopoly in a product market for a period will have incentives to prolong the duration of its monopoly and extend it into new markets. The competition authorities have the important task of clarifying whether or not such behaviour violates the Competition Act.

The global nature of software markets means that the authorities in a small country like Norway have limited opportunities for influencing

competition in these markets. This is pointed out both in von der Fehr's report and in a report issued by the Danish Competition Authority. The imposition of separate measures in Norway will therefore, in most cases, have only a limited effect.

As regards free software - software with an open source code - there may be variations in the extent to which market failure exists. On the one hand, a person who develops free software will not share in the benefit others get when they obtain the use of such software, so the incentives to produce it will be too weak. On the other hand, free software can constitute part of a business strategy in which software is given away so that a profit can be made from consultancy services related to its use. If public authorities provide support for the development of free software, the existence of a market failure should be clarified.

Any Norwegian policy giving preference to free software can provide the parties involved with a foothold which could form the basis of a wider breakthrough in the market. This may be particularly important in areas that are dominated by proprietary software and which have high barriers to entry. However, the fact that the software markets are international will often limit the effects of Norway being, at best, a pioneering country. Von der Fehr points out that such measures would be risky, partly because it is unclear if the quality of free software is sufficiently high. The Competition Authority shares von der Fehr's view on this point and wishes to point out that if the public authorities are to do anything, then measures should be targeted directly at any market failures.

An important condition for ensuring competition in software markets is interoperability between different types of software. This ensures that the products from different suppliers will work together. It is thus important to prevent software manufacturers from designing software in such a way that software interoperability and functionality are achieved only with software from the same supplier in adjacent markets. The use of open standards helps to promote such interoperability.

As regards open document standards in particular, efficiency benefits can be achieved if the users of such services are not locked into one special, proprietary type of software. Von der Fehr has advised the Norwegian authorities to be open to both the ODF and OOXML standards in order to avoid ending up in a situation where they might have "backed the wrong horse" because they did not know which would become the dominant standard. Generally speaking, when choosing one or more standards one should compare the benefits of the network effects of having one standard against the benefits of standards competition and innovation that are available with several standards. Based on the analyses in von der Fehr's report and the report issued by the Danish Competition Authority, the Competition Authority finds no

basis for currently recommending one document standard for the type of documents for which the ODF and OOXML standards are intended.

The software markets are dynamic and international. It is therefore important to monitor these markets, especially in view of the fact that the parties with periodical monopolies are abusing their dominant positions in order to prolong their monopolies and extend them to new markets. It will also be important for the competition authorities to keep up-to-date with developments in these international markets. Apart from this there is nothing contained in von der Fehr's report, the Danish Competition Authority's report or the Authority's own assessment to indicate that there is currently a need to impose special measures in these markets, especially since special measures in Norway would have little impact on the global software markets.

### **The TV market**

The Competition Authority does not currently recommend making any adjustments that would oblige distributors to offer TV channels individually rather than in packages.

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## Reputation



- The Competition Authority has retained the same level of professional expertise after its move to Bergen as it had in Oslo.

### Activities

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#### Reputation survey

The Competition Authority conducted a reputation survey during the autumn of 2008 along the same lines as in previous years. This survey shows that the Authority faces a few challenges relating to knowledge about the Authority, the Competition Act and the time it takes to handle cases. On the other hand, its user groups have a good impression of the Authority in terms of its economic and legal expertise.

The Competition Authority elected not to conduct another reputation survey in 2009. There are several reasons for this, including the fact that undertaking such a survey is extremely demanding on resources. However, the most important reason is that the Authority is concerned that such a comprehensive survey containing a relatively large number of questions each year would place an undue burden on the respondents - who are generally the same from one year to the next. In order to avoid this problem and thus ensure quality answers and a high response rate, the Competition Authority has consequently decided to conduct its reputation survey every second year.

### Results

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Due to the fact that the Competition Authority did not conduct a reputation or deterrence survey in 2009, it is difficult to document the

results of the efforts that have been made to maintain the reputation of the Competition Authority.

On the other hand, in 2009 Asplan Viak undertook an evaluation of the Competition Authority's move to Bergen. In addition, each year the Competition Authority is evaluated by the Global Competition Review's "Rating Enforcement." We also have Synovate's 2009 Image Survey and Difi's (the Agency for Public Management and eGovernment) Annual Quality Assessment of Public Websites. The main points to emerge from these evaluations are included below.

#### **Synovate's 2009 image survey**

Synovate's 2009 Image Survey shows weakened ratings for the Competition Authority as compared with the previous year in respect of: i) social responsibility; ii) efficiency and financial management; iii) openness and information; and iv) expertise and specialist knowledge.

#### **Difi's Annual Quality Assessment**

The Competition Authority's website was awarded top marks (six stars) by Difi in its Annual Quality Assessment. This includes 100% compliance with its requirement in respect of accessibility.

#### **"Evaluation of moving state activities: the Competition Authority"**

This report was commissioned from Asplan Viak by the Ministry of Government Administration and Reform. The report points out that the Authority has a young, inexperienced staff. This is partly due to the move which resulted in a high turnover of staff. The management have consequently devoted a lot of time to the recruitment and training of new employees. This can place a double burden on young, inexperienced managers since they have to become accustomed to their management roles and also engage in comprehensive recruitment about which they have little experience. The experienced managers, of which there were few, therefore had to take on major responsibilities for training. Hence, during the most intensive winding down and building up phases the whole organisation was clearly less than fully focussed on its external activities.

However, the Authority's turnover dropped from 20% in 2007 to 15% in 2008. Consequently the Authority is operating at the same level as it was prior to the move. It has been pointed out that the move to Bergen has been distinguished by extremely close cooperation with university and business school circles for the recruitment of recently qualified students, and the exchange of employees with top expertise and professional cooperation, all of which have served to boost mutual expertise. The Competition Authority gained some professional experts at an early stage who were able to facilitate the recruitment process.

In the user surveys conducted by Asplan Viak for its evaluation, the view was expressed that the Competition Authority as an organisation

is in the process of becoming established at the same quality level as it had prior to the move, and that many of the challenges faced during the move were linked to the fact that the move occurred at the same time as the rules to be enforced were undergoing substantial change. Nevertheless, users expressed a certain amount of frustration about the high turnover, about the fact that they had to interact with many new, inexperienced employees and that this had been somewhat detrimental to the quality of the decisions made. However, at the same time they said that this has gradually become less of a problem. The general impression is that the Authority has initiated measures with positive results: the recruitment of personnel with a high degree of formal expertise, and good training. It has also been said that the work product of by the Authority is generally of a good professional standard, but that having fewer employees with practical experience leads to longer case handling times and weak performance as regards detecting the need for and initiating action. On the other hand the industry also believes that the Authority has become weaker as a political player and now lacks experience in influencing political processes.

The report concludes i.a. that the Competition Authority is now operating at the same professional level in Bergen as it previously did in Oslo.

### **Global Competition Review**

The Competition Authority has been awarded three out of five stars in the Global Competition Review's "Rating Enforcement," i.e. the same as for the previous year. Each year the Global Competition Review undertakes an evaluation of the competition authorities in a number of different countries. Such evaluations are conducted on the basis of two questionnaires: one among the competition authorities themselves and one among users who deal with these authorities, including legal practitioners, economists and other academics, business consultants and lawyers.

This evaluation points out that the Authority still has a high turnover of staff and that the low average age means that the Authority does not have the senior personnel that many outside practitioners would have liked to have seen. However, the evaluation indicates that there are signs of improvement.

It also points out that the work of the Authority is relatively transparent, even though some lawyers think that it is sometimes difficult to obtain access to case papers, not just for third parties, but also for the parties themselves. On the other hand reference is made to the fact that the Authority has been successful in negotiating solutions to potential competition problems without having to implement specific enforcement measures.

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## Information for consumers



### Activities

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#### **List of energy prices**

The Competition Authority maintains an up-to-date list of energy prices. However, the technical solution is old and it is limited in terms of functionality and reliability. In addition, it is not sufficiently easy to use. The revised 2009 national budget provides no funds to develop a new solution as had been proposed. The reason given was that a central decision was required about how responsibility for consumer portals of this type should be assigned.

During the autumn of 2009 the Competition Authority initiated limited work designed to make a number of functional changes and obtain better user access within the solution. Towards the end of 2009 funds were promised by the Ministry of Government Administration and Reform (FAD) in order to continue developing the energy price database. This will simplify maintenance, make it easier for users and provide more accurate price comparisons.

#### **Double calculation fare system for taxi transport**

In 2009 the Competition Authority drew up and circulated consultative documents containing new draft regulations relating to fare calculations and maximum prices for taxi transport.

#### **Cooperation with the Consumer Ombudsman and the Consumer Council**

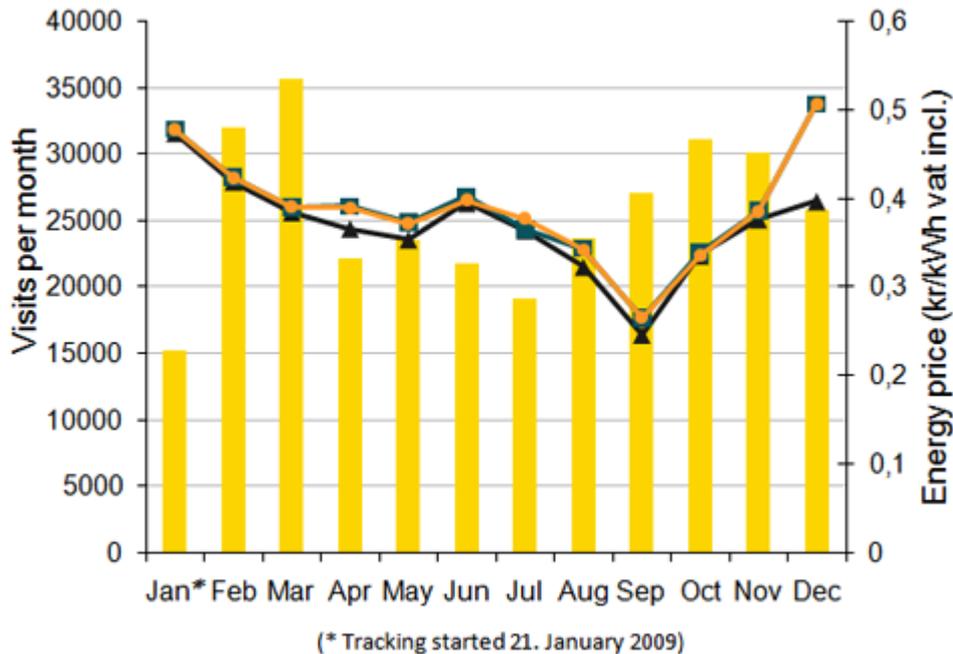
The Competition Authority has cooperation agreements with the Consumer Ombudsman and the Norwegian Consumer Council. In addition to engaging in regular cooperation on specific cases, the three organisations hold regular cooperation meetings twice a year. A regular

meeting has also been established for discussing the groceries markets among the Consumer Council, the Consumer Ombudsman, the National Institute for Consumer Research and the Competition Authority.

## Results

### List of energy prices

#### Visits per month and energy price developments in 2009



- Visits per month
- ▲ Elspot price South (NO1)
- Elspot price Central (NO2)
- Elspot price North (NO3)

The Competition Authority's list of energy prices received 195,105 unique visitors in 2009. This list of energy prices makes it easier for consumers to compare energy prices and to find their way around the market so that they can more easily decide whether or not it is to their advantage to change their energy supply agreements or their energy providers. Many of the changes of supplier/agreement that occur can be attributed to the energy prices list. The Competition Authority also receives a number of phone calls and e-mails from consumers seeking help with finding cheaper electricity supply agreements. These may, for example, come from consumers who do not have access to the Internet, users requiring assistance or users who have queries about the energy market, the energy prices list and the prices reported.

#### Better competition with more simplified fares

The Competition Authority determines maximum prices for taxi services throughout much of the country. However, in most major towns and

some other areas prices are freely determined in the market. In both price-regulated areas and in areas with market pricing, the current fare system (single system calculation) is very difficult for consumers and providers to understand. This makes it difficult to compare various offers, which in turn reduces competition in the market.

The Authority is proposing that some fare elements, such as supplements for advance bookings, should be prohibited. The Competition Authority is also proposing a scheme whereby the relationship between the most important fare elements should be the same for all taxi companies. This proposal is intended as an addition to the introduction of double system calculation and it could make it even easier to compare taxi prices.

In addition, the Competition Authority has implemented a full review of current price regulation with the aim of making maximum prices more readily available to both providers and consumers. The Competition Authority believes that these proposals, along with the provision of better price information at large taxi ranks and in taxis, will make it easier for consumers to compare prices and make informed choices about providers, thus strengthening competition among those involved in the taxi market. These proposals have been circulated for consultation and the Authority is currently working on making a final decision about the matter.

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## Safeguarding competition in public procurement



- Illegal direct procurement is regarded as the most serious breach of the regulations.

### **The Public Procurement Complaints Board (KOFA) deals with complaints about breaches of the procurement regulations.**

For administrative purposes the Board's Secretariat falls under the Competition Authority. Although KOFA and the Competition Authority enforce two different sets of rules, the purpose is the same: the efficient utilisation of society's resources. Both sets of rules are important for preventing economic crime, such as corruption. Many of the corruption cases uncovered during the past few years involve the illegal appropriation of public funds and instances where tendering processes failed to be implemented.

#### **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. The board's secretariat is placed, administratively, under the Norwegian Competition Authority in Bergen.

### **Important synergies between KOFA and the Competition Authority**

KOFA and the Competition Authority cooperate to create a common professional environment to meet the challenges to society posed by economic crime. In this context the Competition Director General is keen to forge closer links between KOFA's activities and those of the Authority.

One move towards this integration was to change Anneline Vingsgård's position as the head of the KOFA Secretariat to that of a director with special responsibility for public procurement. This change became effective on 1 November 2009. In her capacity as Director, Vingsgård is now a member of the Competition Authority's management group. The Director also has professional and personal responsibility for the Secretariat.

## Activities

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There has been a substantial increase in the number of cases dealt with by KOFA, which have almost doubled in volume since 2006 and 2007. The introduction of the authority to impose fines has resulted in KOFA receiving much greater attention. The cases dealt with are often extremely complicated in terms of both facts and the law. There has also been a significant increase in the number of employees at the Secretariat during this period.

[KOFA case statistics >>](#)

KOFA realises that there is a major need for knowledge about how the public procurement regulations should be understood and used, and it is experiencing a great demand for guidance. KOFA and the Competition Authority are therefore cooperating on disseminating knowledge about the rules contained in both the procurement regulations and the Competition Act in respect of illegal collusion on tenders for public awarding bodies.

[To the top](#)

## Results

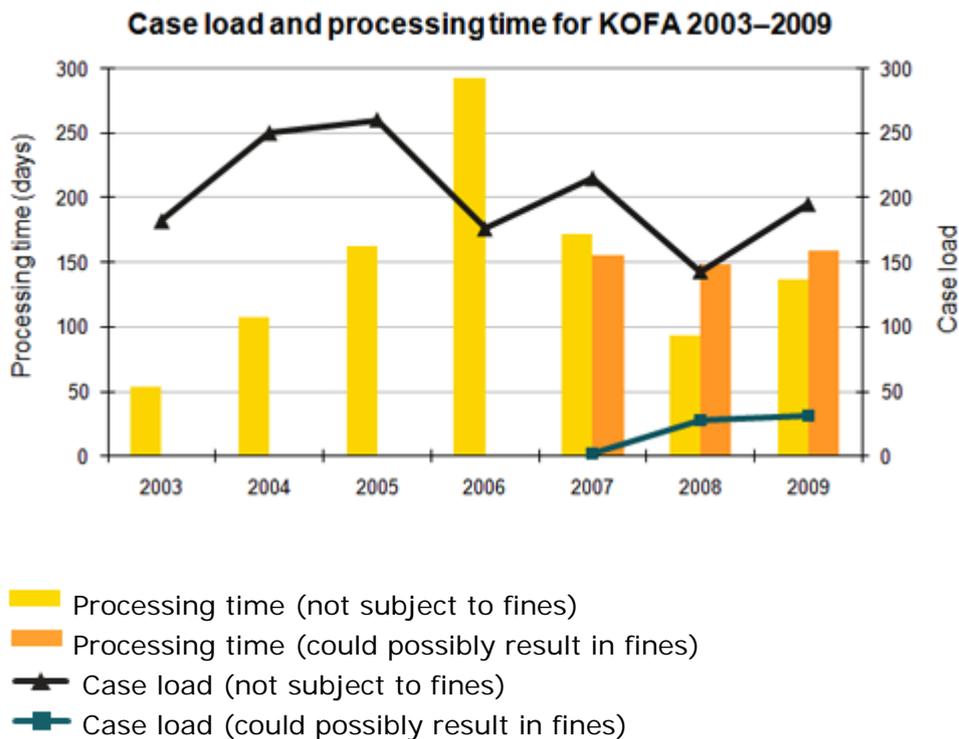
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In 2009 the time spent on processing cases not subject to fines (195 cases) was 137 days, i.e. 4.4 months. The corresponding number of days for cases which could possibly result in fines (31 cases) was 159 days, i.e. an average of 5.1 months.

The number of outstanding cases increased from 72 in January 2009 to 129 at the end of 2009.

The volume of cases received by KOFA continued to increase in 2009, and now appears to have stabilised at a level that is almost twice as high as it was in 2006-2007. The right to impose fines in cases relating to illegal direct procurement has resulted in a particularly large increase in the workload of the Secretariat, and the number of permanent lawyers therefore increased by 3 person-years in 2009, plus one part-time position. It would appear that this will enable the Authority to keep on top of the cases received, but it is taking longer than expected to reduce the backlog of old cases. The longest case

processing times are those of the so-called "non-priority cases," i.e. cases where procurement has already been completed.



In 2009 KOFA issued 7 fines for illegal direct procurement, and the Complaints Committee has thus issued a total of 11 fines since it acquired the right to issue fines on 1 January 2007. Illegal direct procurement is procurement that is not advertised in line with the public procurement regulations. Illegal direct procurement is regarded as being the most serious breach of the regulations because such procurement completely evades the requirement for competition, which is the main purpose of the regulations.

In 2009 the Complaints Committee received 40 complaints relating to illegal direct procurement. Some of these complaints came from the Confederation of Norwegian Enterprise (NHO). The Office of the Auditor General of Norway had commented in its annual review for the 2007 budget year, Document 1 (2008-2009), on several instances of procurement carried out by the Norwegian Directorate for Children, Youth and Family Affairs, Norsk Tipping AS, the National Collection Agency, the Norwegian Directorate of Health, the Housing Bank and the Norwegian Defence Estates Agency. The NHO followed up this report by submitting complaints about these instances to KOFA. The cases were extensive and resource intensive. KOFA is now in the final stages of dealing with these complaints.

The large number of cases received related to illegal direct procurement indicates that knowledge that this is a serious violation, subject to a fine, has increased during the past few years. The Complaints Committee does not have the authority to investigate cases involving suspicion that an awarding body may have neglected to

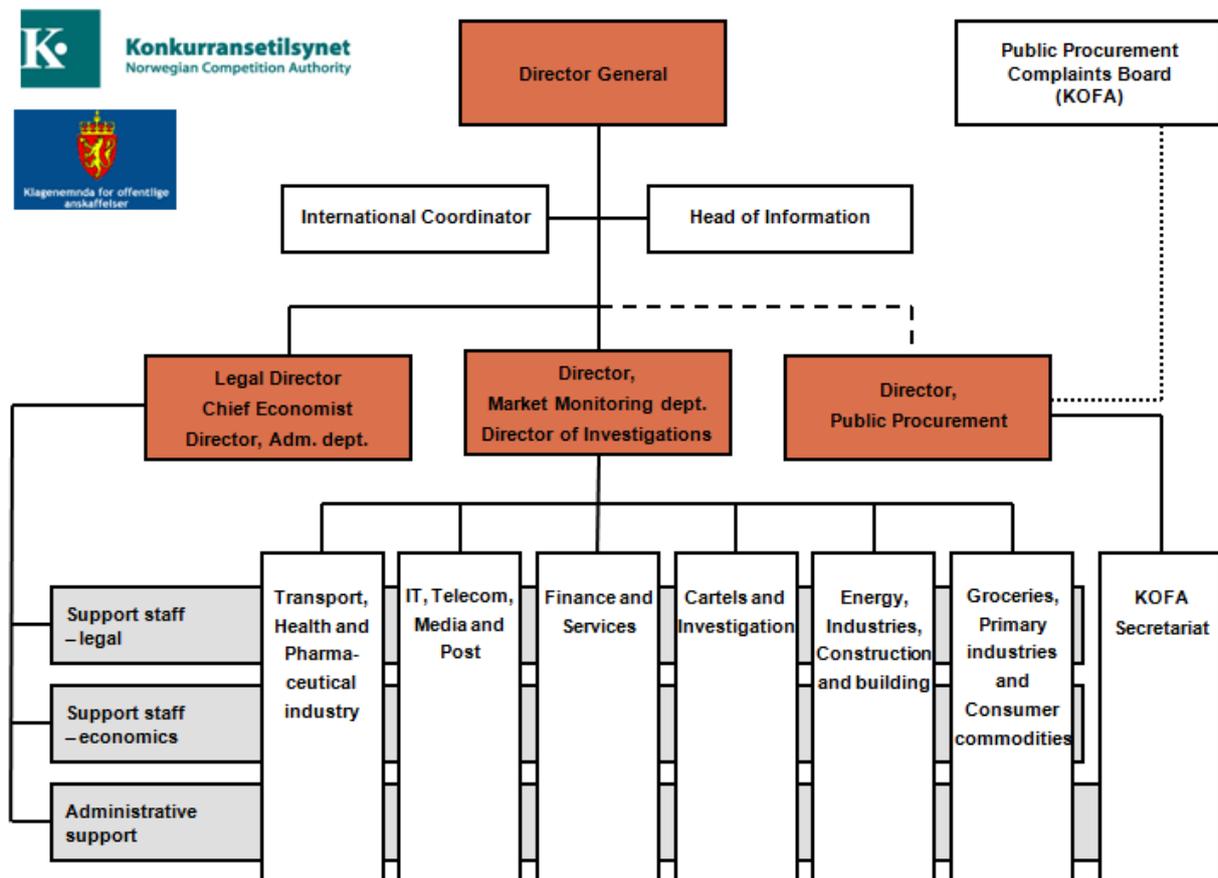
advertise a tender. This means that not all instances of illegal direct procurement end up on KOFA's desk. Without the authority to investigate, the Complaints Committee is dependent on suppliers, organisations, politicians and others submitting complaints to KOFA about instances of procurement that should have been advertised.

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Annual Report 2009

Organisation and resource use



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## Human Resources



- The Competition Authority has built up a staff with sound knowledge of competition economics and law.

During the last few years the Competition Authority has established stable operations in Bergen. It has succeeded in retaining skilled employees and has through extensive training built up a staff with sound knowledge of competition economics and competition law.

The Competition Authority has 104 employees, including those on leave. The table below shows the distribution of positions at the Competition Authority for men and women as of 31 December 2009.

### Distribution of positions within the Norwegian Competition Authority

Position	Total	Women	Men
Managers	18	5 (28 %)	13 (72 %)
Senior advisers	36	12 (33 %)	24 (67 %)
Advisers	34	19 (56 %)	15 (44 %)
Higher executive officers	10	7 (70 %)	3 (30 %)
Executive officers	4	4 (100 %)	0 (0 %)
Trainees	2	1 (50 %)	1 (50 %)
<b>Total</b>	<b>104</b>	<b>48 (46 %)</b>	<b>56 (54 %)</b>

It is the aim of the Competition Authority to create a good, safe working environment for all of its employees. The Authority places

emphasis on preventive measures that can help to create good, healthy working conditions.

The Competition Authority is constantly assessing the reorganisation and improvement of its internal work processes, and a high percentage of its employees are involved in this work. New system solutions designed to help boost the quality and efficiency of the Authority's administrative procedures have been implemented.

Boosting skills is a priority tool for retaining skilled employees and improving the quality of the Authority's work. The Competition Authority has invested heavily in management development. In addition to placing greater focus on perquisites and a positive social environment, it is very important to have competent managers in order to retain and recruit skilled employees. The Authority has also developed and implemented more transparent salary and career development paths for its employees.

## **More stable personnel**

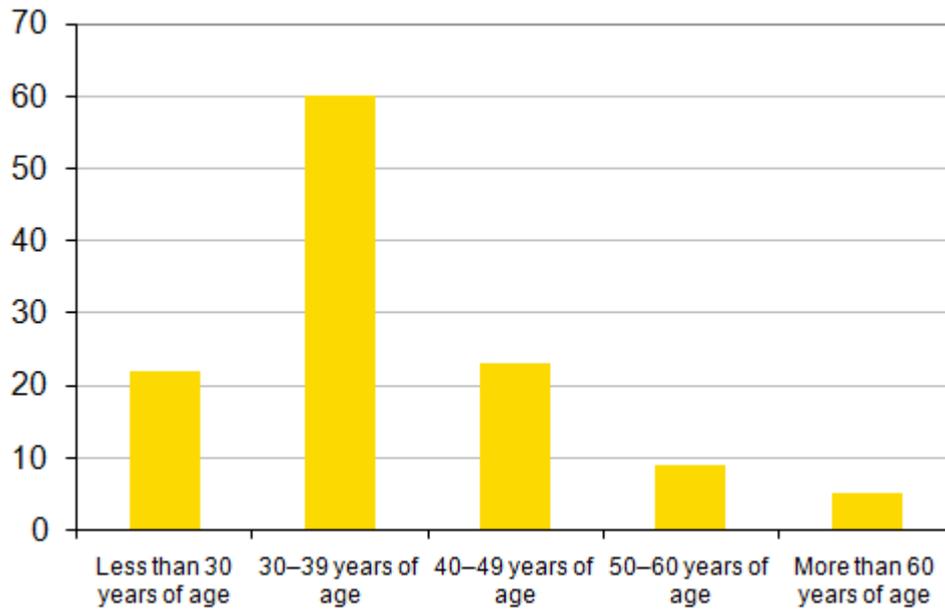
Following several years with a high turnover of staff, the Competition Authority has established a more stable operation. As in past years, most employees have worked for the Competition Authority for only a relatively short period of time. However, there has been a considerable improvement as regards length of service in 2009 as compared with 2008 and 2007. In 2009 56 % of the Authority's employees had been employed between two and five years; 32 % had served for less than two years; and 12 % had served for over 5 years.

In 2007 turnover stood at 20 %, compared with 15 % in 2008 and 11 % in 2009. The Competition Authority's employees are very attractive on the labour market and it is difficult to keep them in the long term. This implies that no further reductions in turnover can be expected in the future.

## **Young environment**

The average age is 37. The figure below shows the distribution among the different age categories. The Competition Authority also has two apprentices who have not been included in the diagram or in the average calculations.

### **Number of employees distributed among age categories**



## High level of expertise

The Competition Authority has many employees with higher education. 76% are qualified as economists, business economists or legal practitioners. Five employees hold doctorates. The Authority's Chief Economist is a Professor of Economics.

### Staff education

Education	Total	Women	Men
Economists	38 (37 %)	10 (26 %)	28 (74 %)
Law degrees	40 (39 %)	22 (55 %)	18 (45 %)
Other college or university education	16 (16 %)	9 (56%)	7 (44 %)
High school diploma or less	8 (8 %)	6 (75 %)	2 (25 %)
<b>Total</b>	<b>102 (100 %)</b>	<b>47 (46 %)</b>	<b>55 (54 %)</b>

## Development of expertise

The Competition Authority places considerable emphasis on ensuring that its employees enjoy good conditions for further development. Employees learn by resolving issues, attending training courses and undertaking their own studies. It is important for the knowledge gained to be useful for job performance.

The development of expertise in competition economics and law through attending internal and external courses is a priority. In 2009 the Competition Authority devoted considerable resources to boosting

expertise relating to investigations, including especially securing evidence and recording statements.

The Authority continues to devote considerable attention to management development, and in 2009 four managers attended management courses.

### **Absence from work due to illness**

The Competition Authority has signed a More Inclusive Workplace agreement and is actively involved in reducing absence from work due to illness. In 2009 the Competition Authority achieved its target of reducing such absence to below 5%, with total absence standing at 4.4%. There was an increase in absence from work due to illness in 2009 as compared to 2008 when total absence amounted to 2.6%. This increase was lower for men than for women.

### **Equal opportunities**

The Competition Authority emphasizes equality in internal and external recruitment for all jobs, particularly managerial jobs. When advertising vacancies, women in particular are encouraged to apply.

One of the Authority's personnel policy targets is to recruit persons with immigrant backgrounds, and this is followed up in all employment processes.

The Competition Authority has been largely successful in obtaining an equal distribution of the genders. However, work remains to be done towards achieving a greater degree of gender distribution among middle and senior managers and senior consultants.

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## Budget and Accounts – Norwegian Competition Authority

### Balance sheet (amounts in Norwegian kroner)

	2007	2008	2009
<b>ALLOCATED BUDGET</b>	<b>84 661 000</b>	<b>88 929 000</b>	<b>83 668 000</b>
<b>SALARIES</b>			
Market surveillance	36 376 000	39 956 000	38 824 000
Information	1 687 000	1 613 000	1 158 000
Administration	9 577 000	9 881 000	10 276 000
<b>Total, salaries</b>	<b>47 640 000</b>	<b>51 450 000</b>	<b>50 258 000</b>
<b>GOODS AND SERVICES</b>			
EDP and archives	11 521 000	13 214 000	12 425 000
Information	1 415 000	1 794 000	1 584 000
Premises	12 377 000	9 143 000	9 592 000
Training	1 981 000	3 254 000	3 445 000
Recruitment	1 084 000	1 040 000	379 000
Travel and meeting activities	3 028 000	3 875 000	2 037 000
HSE measures	518 000	636 000	763 000
Miscellaneous	5 097 000	4 402 000	2 650 000
<b>Total, goods and services</b>	<b>37 021 000</b>	<b>37 358 000</b>	<b>32 875 000</b>
<b>TOTAL EXPENDITURE</b>	<b>84 661 000</b>	<b>88 808 000</b>	<b>83 133 000</b>
<b>BALANCE</b>	<b>0</b>	<b>121 000</b>	<b>535 000</b>

### Revenues from penalties (NOK)

	2007	2008	2009
<b>Penalties</b>	<b>935 000</b>	<b>3 665 000</b>	<b>1 075 000</b>

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## Budget and Accounts – Public Procurement Complaints Board (KOFA)

### Balance sheet (amounts in Norwegian kroner)

	2007	2008	2009
<b>Allocated budget</b>	<b>6 324 000</b>	<b>5 039 000</b>	<b>9 047 000</b>
Salaries	5 443 000	4 275 000	7 137 000
Goods and services	842 000	841 000	1 857 000
<b>Total expenditure</b>	<b>6 285 000</b>	<b>5 116 000</b>	<b>8 994 000</b>
<b>BALANCE</b>	<b>39 000</b>	<b>-77 000</b>	<b>53 000</b>

### Revenues from fees

	2007	2008	2009
Budget	193 000	201 000	210 000
Fees	1 134 830	1 127 000	4 854 000
<b>Excess income</b>	<b>941 830</b>	<b>926 000</b>	<b>4 644 000</b>

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## Case Statistics – Norwegian Competition Authority

### Cases received

	2006	2007	2008	2009
Notifications of mergers and acquisitions	872	561	444	294
Complaints and tips related to violation of law/anti-competitive conduct *	91	58	54	100
Requests for identification of public regulations detrimental to competition	19	15	21	15
Cases for public enquiry	194	211	186	222
International cases	138	181	120	146
Administrative and other issues	625	261	249	269
<b>Total</b>	<b>1939</b>	<b>1287</b>	<b>1074</b>	<b>1046</b>

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

### Cases closed

	2006	2007	2008	2009
Interventions against mergers and acquisitions	2	5	4	1
Interventions against anti-competitive conduct	0	2	4	3
Formal letters regarding public regulations detrimental to competition	2	5	3	3
Written submissions of significance	68	58	42	39
Rejections of requests for intervention	55	36	27	31
Administrative fines – failure to submit or late submission of notification of mergers and acquisitions *	66	17	9	7
Administrative fines – violation of the				2

	2006	2007	2008	2009
implementation prohibition *				
Administrative fines for having provided incorrect or incomplete information when notifying a merger or acquisition	0	0	0	1
Decisions on partial exception or suspension of the implementation prohibition *			3	10
Resolutions regarding obligation to report information to the Competition Authority	3	4	0	0
Decisions regarding maximum fares for taxis	0	1	1	2
Other resolutions	442	4	3	2 **

\* Effective from 1 July 2008, there is no longer a set deadline for notifying concentrations to The Norwegian Competition Authority. However, mergers and acquisitions are prohibited from being implemented before they have been notified to and reviewed by Authority.

\*\* 1 rejection of request for a compulsory licence, 1 interim order prohibiting implementation

#### Fines (amounts in Norwegian kroner)

	2006	2007	2008	2009
Anti-competitive conduct		45 000 000	3 650 000	7 700 000
Violations of the obligation to notify mergers and acquisitions *	1 850 000	610 000	235 000	325 000
Violations of the implementation prohibition *				250 000
Incomplete or wrong information provided to the NCA upon request		30 000		50 000

\* Effective from 1 July 2008, there is no longer a set deadline for notifying concentrations to The Norwegian Competition Authority. However, mergers and acquisitions are prohibited from being implemented before they have been notified to and reviewed by Authority.

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## Case Statistics – Public Procurement Complaints Board (KOFA)

### Case statistics KOFA 2003–2009

	2003	2004	2005	2006	2007	2008	2009
Complaints	268	287	287	158	155	224	285
Decided	182	248	260	176	217	171	226
Rejected	76	104	134	50	48	43	50
Violations	51	80	71	79	118	61	107
Non-violations	24	10	27	29	36	38	36

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