

**SWEDEN***(1997)***Executive Summary***Comments by the Director-General*

1. An era in the history of the Swedish Competition Authority has now drawn to a close. When the new rules of the Competition Act came into force, the Competition Authority faced some 900 applications for negative clearance and/or exemption. By the end of 1997, decisions had been taken in all these cases, so that no open cases remain from this time. Of the 900 applications for negative clearance and/or exemption arising from the entry into force of the new rules of the Competition Act before Jan 1st 1994, all had been cleared. From 1994 the Authority has handled an additional 500 application cases and around 1,000 acquisition cases. In addition approximately 900 complaints have been registered. Together the hundred twenty employees of the Authority have dealt with approximately 4000 cases related to the Competition Act. At the end of the year there remained 226 cases, including 19 pending the outcome of decisions by the court and the European Commission.

2. Statistics themselves are often uninteresting for the uninitiated if they are not put into a meaningful context. One instance with comparable competition legislation to apply is the European Commission. Without detailing their figures here, I can nevertheless state that the Swedish Competition Authority has performed a remarkable feat, especially during 1997. A special department was set up to finalise the older cases. Now that this task has been completed, the department has been wound up. But the experiences we have gained from this will be a good foundation to build on in the future.

3. In the autumn work was started on raising our overall competencies to meet the challenges we will be facing in the coming years. Within the legal and economic secretariat an economic analysis function has been established and a chief economist, a professor from the Stockholm School of Economics, has been appointed to provide specialist economic knowledge and expertise. This will help to enhance the Authority's overall analytical expertise in case handling in this area.

4. Over a number of years the Authority has commissioned a market survey company, SIFO, to carry out surveys amongst our most important interest groups. In this year's survey the Authority received a lower rating than earlier from those surveyed when it comes to understanding the position of companies. One explanation for this is that we have not been able to devote as much time as before to providing advice and having discussions with the parties involved and their representatives. Irrespective of the reasons for this assessment, we will be taking measures to remedy this. In the future, staff will not be as bound to their desks and will be able to go out into "reality" to a much greater extent than before. But obviously we are dependent on the willingness of companies, organisations and others to share their expertise and provide us with information on their problems. Another issue recurring in the SIFO surveys from earlier years and which is more pronounced in this year's survey is that the demands and expectations from the surrounding world on the Authority's activities appear to have increased. Even though these expectations may sometimes tend to be unrealistic, we do regard the views and opinions that we have received with the utmost seriousness.

## SWEDEN

5. We will be analysing in what ways we can further develop legal enforcement. A particular issue in my view is the approach taken in the Competition Act towards the conditions for small and medium-sized companies operating on the market.

6. The new situation we have created by finalising all the older cases now means that the Authority can adopt a more proactive role and way of working. This means amongst other things that more resources will be allocated to external information. The probable result of this is that the number of complaints, tips and questions will be greater.

7. The aim is that the decisions made by the Competition Authority and other measures taken, provide guidelines for the behaviour of players on the market. However, an Authority, whose decisions can be appealed to the court, can not provide guidance until case law from the courts has been further developed. In 1997 a number of decisions were made by the courts.

This in itself is good. And even though the Authority didn't win all the cases, the case law that has been established shows that the right priorities were made. Creating the desired case law does take time. However, the time it takes for a case to go through all the different legal instances is excessively lengthy. This is the reason that the Competition Authority supports the proposal from a Government Commission to move towards a two instance system in which the Competition Authority's decisions can be appealed directly to the Market Court as the final instance. The Authority's view is that this is particularly important in cases involving acquisitions. The process at the Stockholm District Court is unnecessarily long with regard to how the market functions.

8. The main task of the Competition Authority is to promote effective competition in the private and public sectors for the benefit of consumers. During 1997 as in earlier years, we have used a major part of our resources for the application of the Act. There are also, of course, areas where the Competition Act is not applicable, but where a competition perspective would provide economic benefits for society. The Authority has submitted proposals for measures in many of these areas. In the future allocating priorities between different types of activities will be one of the most important tasks of the Authority. This means using resources where they yield the maximum benefit to society in terms of developing market conditions that are as good as possible, all ultimately for the benefit of consumers.

9. It has been a tough year, but now that we have successfully fulfilled the Government's demand and finalised all the older cases, we are in a position to build on the foundations we have established and move with strength towards a new era of competition.

### **I. Changes to competition laws and policies, proposed or adopted**

#### ***1. Summary of new legal provisions of competition law and related legislation***

##### *Changes in the rules for notifying acquisitions*

10. The merger control provisions stipulate a system of compulsory notifications, based on turnover thresholds. Since July 1st 1997, it is no longer necessary to notify the Competition Authority of acquisitions where the turnover of the company to be acquired is less than SEK 100 million. The background to the new rules is that the Competition Authority and companies should not be burdened with work that is not significant for competition. If there are special reasons, the Competition Authority may in

individual cases require that an acquisition be notified even though the turnover of the company to be acquired is less than SEK 100 million. Companies may also voluntarily notify smaller acquisitions.

#### *Extended group exemptions*

11. The government has decided to extend the regulations on group exemptions for exclusive distribution and purchasing agreements until the end of June 2000.

12. The regulation on group exemptions for retailing chains has been extended until 30th June 1999.

#### *New group exemption*

13. On February 1st 1997 the regulation on group exemptions for certain agreements, decisions and concerted practices in the insurance sector entered into force. It applies until the end of March 2003.

## **2. Other relevant measures, including new guidelines**

#### *New guidelines from the Competition Authority*

14. The Competition Authority has decided on new general guidelines concerning the Authority's assessment of co-operation between small and medium-sized lorry hauliers not covered by the prohibition under Article 6 in the Competition Act.

## **II. Enforcement of competition laws and policies**

### **1. Action against anti-competitive practices, including agreements and abuse of dominant positions**

#### *a) Summary of activities of*

#### The Swedish Competition Authority

15. The following table shows the number of new cases registered during 1997 under the Competition Act - mergers, agreements and complaints - and the number of decisions taken during the same period. The total number of cases pending at the end of 1997 amounted to 226.

<b>1997</b>	<b>Registered new cases</b>	<b>Decisions</b>
Mergers	224	233
Notifications for negative clearance of exemptions	76	286
Complaints	195	256
Other cases (inquiries etc.)	110	130
<b>Total</b>	<b>605</b>	<b>905</b>

## SWEDEN

16. An important task assigned to the Competition Authority is its consultative role on existing and proposed public regulations. A total of 177 formal opinions were submitted to governmental and public authorities.

### Decisions

17. In 1997 the Competition Authority made 905 decisions under the Competition Act. Of these, 286 concerned applications for negative clearance, or exemptions. In 66 cases the Authority determined that there had been no infringement of the Competition Act and thus granted negative clearance.

18. The provisions of the Act for granting time limited exemptions were fulfilled in 77 cases. The Authority dismissed 30 applications. The remaining application cases were either withdrawn or closed for other reasons.

19. The Swedish Competition Authority has required companies to terminate infringements of the Competition Act in 3 cases. Of these 2 have been issued under penalty of a fine.

20. The Authority made 233 decisions concerning the acquisition of companies, of which 12 decisions were made after in-depth investigations. One third of the acquisitions which were subject to special investigation were approved after further undertakings were received.

### Courts

#### Summons Applications

21. Over the period the Competition Authority initiated legal proceedings in the court of first instance, the Stockholm District Court, in two cases concerning the obligation for companies to pay a fine.

22. The Competition Authority also initiated legal proceedings in the Stockholm District Court in one case concerning the prohibition against the acquisition of a company.

23. In 4 cases the Stockholm District Court at the request of the Competition Authority made the undertakings given by the companies subject to the penalty of a fine.

24. The Stockholm District Court has at the request of the Competition Authority decided that Sweden Post shall pay a fine of SEK 3.8 million for abuse of a dominant position.

#### Appeals to the Stockholm District Court

25. During the period 10 decisions concerning applications for negative clearance or exemption were appealed to the Stockholm District Court, but 4 of these have been withdrawn. At the end of the period, 3 final decisions on obligations had been appealed. The Stockholm District Court decided in substance 5 cases in which the Competition Authority had made a decision. In three of these cases the Authority's decision was annulled or changed. At the end of the period there were 23 cases concerning appeals pending in the Stockholm District Court.

## Appeals to the Market Court

26. The majority of the District Court's decisions concerning negative clearance or exemption and obligations were appealed to the Market Court, the final instance of appeal, which over the period made decisions in 5 such cases.

**Decisions and judgements in the Courts 1997\***

PARTIES	THE COMPETITION AUTHORITY (KKV)	STOCKHOLM DISTRICT COURT (STR)	THE MARKET COURT (MD)
1. Sydsvensk Färskpotatis	95-06-29 Decision under penalty of a fine to cease price and information co-operation. Decision concerning information co-operation appealed.	96-03-29 KKV's decision revoked.	97-03-05 (MD 1997:5) Upheld STR decision.
2. Petroleumhandelns Riksförbund and others	95-05-22 Dismissed application for negative clearance and did not grant exemption for co-operation over negotiations concerning trade margins for sale of fuels.	96-05-24 Partly changed the KKV decision so that negative clearance was granted for co-operation concerning members who are physical persons running a business as a "sole proprietorship".	97-04-15 (MD 1997:8) Revoked STR's decision and confirmed KKV's decision.
3. Vivo Stockholm	94-03-21 Dismissed application for negative clearance and did not grant exemption for co-operation over assistance with calculating prices in the retail chain Vivo Stockholm.	96-04-09 Upheld KKV's decision.	97-06-10 (MD 1997:11) Changed STR decision and granted negative clearance.
4. Skandia and Trygg Hansa	95-08-29 Dismissed application for negative clearance and did not grant exemption for agreement on insurance administration and fund management concerning existing medical insurance policies.	96-08-23 Changed KKV's decision and granted negative clearance.	97-06-12 (MD 1997:12) Upheld STR decision.

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\* exclusive acquisition cases

SWEDEN

PARTIES	THE COMPETITION AUTHORITY (KKV)	STOCKHOLM DISTRICT COURT (STR)	THE MARKET COURT (MD)
5. Cementa and Aalborg Portland	95-05-12 Dismissed application for negative clearance and did not grant exemption for co-operation in consortium on supplies of cement for the Öresund bridge.	97-01-03 Changed KKV's decision and granted negative clearance.	97-10-08 (MD 1997:15) Upheld STR decision.
6. Sweden Post	95-12-22 Decision under penalty of a fine not to offer or make an agreement on distribution of B-Post periodicals in postal areas 10, 11, 12, and 16 at prices applicable from January 1st 1996.	97-06-18 (Ä 8-4-96) KKV's decision revoked.	STR decision appealed.
7. Södra Skogsägarna	96-06-25 Decision under penalty of a fine to cease, when association responsible for sales to third parties, deciding on prices for timber and pulp wood produced by association's members or to take measures providing the same results.	97-11-07 (Ä 8-89-96) KKV's decision revoked.	STR decision appealed.
8. Sweden Post	94-11-11 Application for a summons (Privpakärendet).	97-12-23 (T 8-1264-94) Fine SEK 3.8 million.	STR decision appealed.
9. HSB National Federation	94-05-24 Granted negative clearance for proposals of HSB (a national federation for housing administration) for new standard statutes for housing associations.	97-12-30 (Ä 8-60-94) Upheld KKV's decision (SBC ek.for. had appealed KKV decision).	STR decision not appealed.

PARTIES	THE COMPETITION AUTHORITY (KKV)	STOCKHOLM DISTRICT COURT (STR)	THE MARKET COURT (MD)
10. Stora Skog, Mo and Domsjö and Munksjö	96-06-25	97-12-30 (Å 8-90-96)	
	Dismissed application for negative clearance and not granted exemption for purchasing co-operation etc. In the forestry industry.	Approved KKV's assessment of the case in substance, but granted an exemption for phasing this out.	STR decision appealed.

b) *Description of significant cases, including those with international implications*

The Market Court

27. Case involving "Sydsvensk Färskpotatis" (economic association) concerned co-operation between the member companies of an association on the dissemination of weekly reports to each other on the quantity of potatoes picked and the quantity expected to be ready for picking the following week. The issue was whether this co-operation gave the member companies the opportunity to adjust their supply in order to take advantage of a price higher than would have been the case without such information. The Market Court considered that co-operation over such information between potato cultivators did not have any appreciable effect on competition.

28. Case involving "Petroleumhandelns Riksförbund (PRF) " (national association) concerned co-operation between members in PRF that the association acting on behalf of its members negotiated with the oil companies on trade margins for the sale of petrol and diesel. The Market Court decided that the co-operation could not – at least not as a whole – be described as an agreement between employers and employees on salaries or other conditions of employment. The Court found that this was covered by the prohibition against co-operation in the Competition Act against anti-competitive co-operation, despite the fact that the trade margins negotiated only accounted for around 3.5 percent of the total consumer price of petrol and diesel.

29. The Vivo case involved co-operation between convenience goods retailers, who were members of "Vivo Stockholm" (economic association) concerning help in calculating prices. The Market Court stated that the co-operation constituted horizontal price co-operation. The Court, however, found that the co-operation did not have an appreciable effect since Vivo's share of the market only amounted to around 10 percent.

30. The case involving two insurance companies, Skandia and Trygg-Hansa, was about an agreement between the companies on the administration of insurance and fund management concerning medical insurance. The Market Court found as did the Stockholm District Court that the co-operation agreement did not have an appreciable effect due to, amongst other factors, low market shares on the life insurance market, as well as the fact that the co-operation only concerned insurance policies that had already been taken out and that it was not possible to take out further insurance.

31. The case involving Cementa and Aalborg Portland concerned a co-operation consortia between these companies on the supply of cement to the Öresund bridge. The Market Court considered that the

## SWEDEN

effects of the co-operation were in the first instance related to the project and not to the Swedish cement market in general. The Court found that the agreement entered into between the companies could not be regarded as having a harmful effect on competition over the supply of cement to the Öresund bridge, or that in any other way it had an appreciable effect on the Swedish market.

### The Competition Authority

#### Anti-competitive co-operation

#### Conditions for advertising infringed the Act

32. Daily newspapers in the Swedish Publishing Association (TU) have co-operated for a long time over the terms and conditions for advertising. The conditions meant, amongst other things, that the funds paid to the brokers for services over the handling of advertisements were based on a fixed percentage, which was the same for all. Co-operation over prices between competitors is in principle a restriction on competition. The payment was only made to brokers approved by TU, which also had the effect of restricting competition. Co-operation led to certain cost advantages, but not to the extent that the conditions for exemption were fulfilled. Nor was an exemption granted for similar co-operation between specialist and weekly magazines in the trade organisation, Sveriges Tidskrifter.

#### Co-operation between taxis not permitted

33. The Authority has examined the anti-competitive co-operation over i.a. prices between taxi companies sharing a central switchboard in Uddevalla Taxi. Co-operation could not be permitted in this case since Uddevalla Taxi dominated the taxi market in the municipality. The co-operating companies' share of the taxi market amounted to around 90 percent and competitive pressure from companies outside the co-operation agreement was marginal.

34. In calculating market shares, the starting point has been the area over which the co-operating companies run their principal business, which in this case was the Municipality of Uddevalla. This principle has been laid down earlier by the Market Court in a decision concerning the central switchboard for Taxi co-ordination in Skellefteå.

35. The decision has been appealed to the Stockholm District Court.

#### Co-operation between taxis permitted

36. The taxi companies in Taxi Uppsala, despite having a relatively high market share amounting to approximately 40 percent of the market in the Municipality of Uppsala, may continue their co-operation. The Authority considered that competition functioned since there are a number of central switchboards in the municipality. In addition, there is competition from taxi companies outside the municipality providing transport around the Arlanda and Uppsala areas.

#### Dairy co-operation over fruit yoghurt stopped

37. The eight Swedish agricultural co-operative dairy associations co-operate over marketing and product development of fruit yoghurt under identical brand names. Together the dairies have over 80 percent of the fruit yoghurt market. In principle they organise all Swedish milk production centres and thus have control over Swedish milk production. The position of the dairies is further strengthened by direct distribution and division into territories. The Competition Authority considered that the dairies through their co-operation limit and control the market for fruit yoghurt. To make it possible for the smaller dairies to re-orient their activities, a short-term exemption for phasing out the co-operation was granted.

#### Co-operation over giro services did not limit competition

38. Nordbanken and the Postgiro Bank entered into a number of agreements to co-operate in the giro area. In principle the agreements mainly concerned co-operation of a purely technical nature. The agreements were non-exclusive since other players on the giro market have similar agreements with Postgiro. Nordbanken and Postgiro set their customer prices independently of each other. The Competition Authority found that the agreements did not limit competition and thus were not covered by the prohibition against anti-competitive co-operation. Negative clearance was granted.

#### Associations of electricity companies co-operated over prices

39 "Elverksföreningen" (association of electricity suppliers) and "Riksförbundet Energileverantörerna" (REL) (national association of energy suppliers) are two trade organisations representing power producers, electricity suppliers and transmission companies. Together they account for a large proportion of the players on the retailing side of the market for electricity in Sweden. When the electricity market was deregulated in 1996, Elverksföreningen and REL decided together to work out a standard agreement - EL 95 N - intended primarily for companies in heavy industry, and which was to be applied to the sale of electricity to other than private persons. Companies in the heavy industry sector are the largest customers in this area.

40. One of the conditions in EL 95 N gave suppliers of electricity the right during the agreement period to pass on to customers cost changes arising from changes in taxes or charges. Taxes and charges amount to at least 10 percent of the total electricity costs of companies using electricity intensively in their activities.

41. The Competition Authority considered that the decision of the electricity associations to draw up, apply and recommend a standard agreement with such contents constituted a form of price co-operation contravening the prohibition against anti-competitive co-operation. Elverksföreningen and REL were thus ordered to withdraw the condition in the agreement. As a result of this, customers have been able to take advantage of better opportunities to negotiate individual solutions.

#### Prices of ATM services infringe the Act

42. CEKAB, owned by four of the commercial banks, provides technical and operating services for the ATMs and card terminals. CEKAB's prices for different services for banks not owning the ATM centre, are significantly higher than for the owning banks as a consequence of CEKAB's discount system. It is mainly the smaller banks who are thus at a competitive disadvantage. The Authority considered that

## SWEDEN

CEKAB's discount system was anti-competitive and thus prohibited. CEKAB must change its pricing policy by June 20th 1998.

43. The decision has been appealed to the Stockholm District Court.

### Selective distribution - conditions for retailers

44. Brio applied for negative clearance/exemption for the company's terms and conditions for acceptance as a retailer of children's prams. The Competition Authority found that children's prams were not of such technical complexity as to warrant the conditions imposed by Brio on their retailers. Exemption was thus not granted.

### Abuse of a dominant position

#### Sweden Post made changes in its agreement

45. During 1997 Sweden Post had a price adjustment clause in its agreements with larger postal customers. The clause created uncertainty and contributed to an increase in customer loyalty to Sweden Post and thus prevented them from switching to competitors. The Competition Authority considered that the starting point was that customers should be able to decide themselves which postal operator provides the most advantageous conditions in those parts of the country where competition exists. The clause made it difficult for customers to assess the situation and make a choice. The Competition Authority considered that the introduction of the clause in the agreement constituted an abuse of a dominant position by Sweden Post, but decided not to order Sweden Post to withdraw the clause since Sweden Post undertook to remove the price clause during the Competition Authority's investigation and informed customers in a letter that the clause was no longer applicable and would not be applied in future agreements.

#### SF tried to prevent Sandrews from expanding

46. The Competition Authority determined that Svensk Filindustri (SF) -a movie company- had abused its dominant position and has initiated legal proceedings in the Stockholm District Court that SF pay fines of SEK 4 million.

47. At the beginning of the 1990s the cinema chain, Sandrews, made large investments in new cinemas in different parts of the country. This meant that Sandrews could begin to compete with SF over popular American films. The large American film companies were willing to have Sandrews show their films, even though the majority of such films would continue to be distributed through SF. The film companies offered "Confessions of a Vampire", Mary Shelley's "Frankenstein" and "Lion King" to Sandrews cinemas in Malmö. SF threatened not to show these films in their own cinemas. The film companies ran the risk of not having access to cinemas for the majority of their films, a short time before their premieres. But since Sandrews in these cases was able to show all the films at their cinemas, SF's attempt to secure exclusive rights to the films failed. There was, however, a substantial risk that SF's threat would have its desired effect and thus either eliminate Sandrews or be the cause of serious difficulties for Sandrews to continue operating on the market.

Nitro Nobel wished to eliminate competition from imports

48. The Competition Authority considered that the explosives company, Nitro Nobel, had abused a dominant position and thus initiated legal proceedings in the Stockholm District Court that Nitro pay a fine of SEK 5 million.

49. For around 6 months Nitro Nobel used a retailer SweBlast, which was granted more favourable commercial conditions than other retailers in order to prevent competition from importers from a German company. The German company operated on the Swedish market through a company called Allmex. Nitro Nobel recruited sales personnel from Allmex to SweBlast as well as gave preferential financing for the establishment of SweBlast. The idea was that Allmex customers would go over to SweBlast and that the German company would thus lose its sales channel in the Swedish market. Nitro Nobel's attempt, however, failed.

50. Nitro Nobel also tied some of its customers over the period 1993-1995 by means of exclusive purchasing agreements and other agreements having a similar effect. Customers undertook to purchase the whole or large parts of their total volume of orders from Nitro Nobel. This seriously weakened the ability of Nitro Nobel's competitors to market their products.

GB resellers allowed to sell ice cream from other companies

51. After examination by the Competition Authority of GB's rules concerning the loan of refrigerated counters, it became evident that GB, a Unilever subsidiary, in agreements with certain retailers had prohibited these from selling ice cream from other suppliers. Competing suppliers could only sell their products with the approval of GB. The agreement which attempted to tie in retailers to exclusively selling products from one supplier could constitute an infringement of the Competition Act since they prevent retailers themselves determining their own behaviour on the market and make it more difficult for competing suppliers to reach consumers. It is particularly serious from a competition viewpoint when one supplier has a dominant position on the market. In the Competition Authority's discussions with GB, the company stated that the agreements had been changed and that retailers themselves are able to choose suppliers of ice cream apart from GB. The Competition Authority found that GB's exclusive agreement could constitute abuse of GB's dominant position, but since the clause was no longer being applied no further action was taken.

Abuse of a dominant position on the market for door closers

52. Dorma is the largest supplier of mechanical door closers in Sweden and has a dominant position on this market. Dorma gave a few of its retailers the right to purchase a couple of its door closer models at particularly low prices from a special price list. The condition was that these door closers could only be sold to door manufacturers and that these in their turn could only use them in their own production.

53. Dorma also gave an individually adjusted annual bonus, which meant that completely different purchasing volumes were required to achieve the same percentage annual bonus. The annual bonus system was also designed in such a way that it created a strong loyalty effect.

54. The Competition Authority found that Dorma's price list with the clause on further sales and that the annual bonus system constituted abuse of a dominant position. Dorma was thus required under penalty of a fine of SEK 1 million to cease applying these sales conditions.

## SWEDEN

55. The decision has been appealed to the Stockholm District Court.

### 2. *Mergers and acquisitions*

#### a) *Statistics on number, size and type of mergers notified and/or controlled under competition laws*

56. During 1997 the Swedish Competition Authority made decisions in 233 cases under the rules in the Swedish Competition Act rules concerning acquisitions of companies. In 12 of these cases, an in-depth investigation was launched following the initial 30 day examination period.

#### b) *Summary of significant cases*

#### Oligopolistic dominance

57. In cases involving acquisition of a company, there is usually an examination of whether a company obtains or strengthens a dominant position, i.e. single dominance. In the preparatory work for the Competition Act, it was, however, stated that it should be possible to intervene also against acquisitions which lead to a small number of companies together acquiring a dominant position. This situation is referred to as "oligopolistic dominance" and can be defined as a small group of companies which have the opportunity to act in parallel such that the negative effects on the market may be the same as if just one company had enjoyed a dominant position. It is only in more recent times that the situation of oligopolistic dominance has been discussed in the application of Swedish law in connection with company acquisitions. In 1997 the issue was brought up for discussion in two cases at the Competition Authority, namely the Pilkington Floatglass acquisition of Combiglas and Fosselius & Alpen's acquisition of some of the business activities in Skoogs VVS.

#### Optiroc's acquisition of Stråbruken should be prohibited

58. The Competition Authority has taken legal action in the Stockholm District Court to prohibit Optiroc acquiring Stråbruken. The acquisition would create a totally dominant position for Optiroc on a number of different product markets such as facing bricks, floor putty, mortar and dry concrete. By means of the acquisition, Optiroc would attain market shares of between 63 and 85 percent on the relevant markets, which would constitute a substantial strengthening of the significant market shares that it already had prior to the acquisition. In addition, Optiroc and Stråbruken are the only companies with anything approaching a full range of such products and this would amount to a substantial advantage when supplying customers.

#### NCC undertook to divest itself of companies in the building material industry

59. In several cases the Competition Authority decided to take no further action over a number of notified acquisitions since the acquiring parties have voluntarily given undertakings. One such example is NCC's acquisition of Siab. The Competition Authority examined the merger of two of Sweden's largest building and construction companies. The new construction company would have obtained an unacceptably strong position on building material markets such as ballast, concrete and asphalt as well as in the subcontracting area. NCC also co-operated with Skanska in a number of joint companies processing

raw materials. In order to guarantee effective competition on the construction market, it is important that large construction companies compete amongst themselves as much as possible. After discussions with the Competition Authority, NCC undertook to sell Siab's share in the company Swerock, which is one of Sweden's major ballast and concrete producers. The joint ownership of NCC and Skanska in seven asphalt and ballast companies will also be phased out. NCC will also sell off five asphalt plants in local markets where it would otherwise have had an excessively strong position. The undertaking was imposed by the Stockholm District Court under penalty of a fine of SEK 100 million..

Skanska undertook to divest asphalt plants

60. The construction company Skanska's acquisition of "Gatu och Väg" means that an extremely strong concentration of asphalt production would be created in the County of Göteborg and Bohus, the County of Älvsborg as well as in Dalarna. Since Skanska undertook to divest itself of three asphalt plants located in Western Sweden and Dalarna, as well as the asphalt plants acquired from "Gatu och Väg", the Competition Authority decided to take no further action. The undertaking was imposed by the Stockholm District Court under penalty of a fine of SEK 15 million...

### **III. The role of competition authorities in the formulation and implementation of other policies, e.g. regulatory reform, trade and industrial policies**

61. One of the tasks of the Competition Authority is to propose changes in the rules and other measures in order to remove obstacles to effective competition in private and public activities. This means that the Authority monitors changes in regulated and deregulated areas, examines the conditions for competition in different sectors and analyses competition problems which are reported to the Authority or otherwise drawn to its attention. The Authority also provides comments on recommendations made by i.a. state commissions which may have an influence on competition, and as far as possible it submits concrete proposals for measures which increase the effectiveness of markets and the consumer's freedom of choice.

#### ***Regulations***

62. In Sweden a great deal of experience has been accumulated from deregulating markets. The results of this process show that it can take a long time before the conditions for well-functioning competition can be established. For this reason it is important to monitor the results of deregulation and when necessary make changes in the rules in order to remedy any undesired consequences. The Competition Authority's reports and analyses of markets covered by regulation or which have been deregulated are carried out mainly on the Authority's initiative or are commissioned by the Government.

#### ***Reports and analyses***

63. During the year the Authority has also evaluated co-operation between companies in some industries governed by special regulations in the competition area. In this investigatory work the Competition Authority has co-operated with other authorities and researchers.

64. On January 1st 1996 regulatory changes introduced competition in the production and sales of electricity. The Competition Authority has made a second follow-up of the effects. The Authority's first

## SWEDEN

survey of the effects of the reform were presented in 1996 in the report "Deregulation of the Swedish Electricity Market".

65. The Competition Authority, the National Board of Trade and the National Board for Industrial and Technical Development (NUTEK) are together running a project on sound playing rules for industry and the public sector. A second project "Environment, Trade and Competition" was started in 1997. An issue of current concern is how environmental rules can influence the conditions of competition and international trade.

66. In the Competition Authority's report "Small Companies - Proposals for Increasing Growth", around 30 proposals were put forward to promote the establishment of new companies and further stimulate the development of existing small companies.

67. The Competition Authority was commissioned by the OECD to produce the report "Regulatory Reforms in Sweden". Developments were analysed in convenience goods retailing, domestic aviation, road transport and telecommunications. The report is a contribution to the OECD project "The economy-wide effects of regulatory reforms" aiming to provide a basis for countries to improve through deregulation the functioning of the market for the benefit of consumers.

### *Statements of opinion*

68. The Government Cabinet Office and state authorities often ask for the Competition Authority's opinion on reports and commissions which may have an effect on competition. By giving its views the Authority is able to influence at an early stage recommendations and future decisions.

69. The Competition Authority also submits its own proposals in statements on questions connected with socio-economic issues.

70. In 1997 the Competition Authority submitted around 180 statements. Among these, the following can be mentioned.

71. In the European Commission's Green Paper "Public Procurement in the EU", problems concerning public procurement were discussed. The Competition Authority considered that the Commission should further analyse the obstacles to procurement in order to increase the number of tenders from companies in other member states. The Authority considered that the Commission should also implement measures to make it easier for small and medium-sized companies to compete for the purchasing of authorities and government agencies.

72. In a statement on the report "Sweden and the EMU" (1996:158), the Authority pointed out that Swedish participation at the start of the EMU would be beneficial for competition, and thus for consumers and Swedish prosperity. A single currency would e.g. make it easier for small and medium-sized enterprises to operate on the internal market.

73. The Competition Authority firmly rejected a proposal in the report "Books Today" (SOU 1997:141) which would make it possible for publishers and bookshops to enter anti-competitive agreements with each other through the introduction of a new exemption in the Competition Act. The view of the Authority was that the proposal would mean higher prices and restrict consumer access to books.

**IV. Resources of competition authorities**

**1. Resources overall (current numbers and change over previous year)**

- a) Annual budget (in Swedish currency and USD): SEK 68 112 000  
USD 8 732 000 (rate of exchange SEK 7,80)
- b) Number of employees (person-years): 117  
economists; 51  
lawyers; 38  
other professionals; 13  
support staff; 15  
all staff combined. 117

**2. Human resources (person-years) applied to**

- a) Enforcement against anticompetitive practices; 73
- b) Merger review and enforcement; 10
- c) Advocacy efforts. 8

**3. Period covered by the above information: 1997**

**V. Summaries of or references to new reports and studies on competition policy issues**

*Available in English from the Swedish Competition Authority*

The Swedish Competition Authority. Functions and Organization (1997)

Competition Rules in Sweden. Swedish Competition Authority (1997)

Annual Report 1997 of the Swedish Competition Authority. Abridged version in English

Regulatory Reform in Sweden. A report from the Swedish Competition Authority, February 1997