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-- 1999 --

Executive Summary

1. The work of the Norwegian Competition Authority in 1999 has been characterised by a number of major merger cases. The Authority has uncovered infringements of the Competition Act's prohibition on market sharing and collusion on pricing and tendering. Accepted penalties and fines for unlawful restraints were amongst the highest ever given in antitrust cases in Norway. The Competition Authority has pointed out several anticompetitive issues associated with public enterprises.

2. The Competition Authority has supported the prosecuting authority in cases reported, including calculations of gain and preparation for court cases. A number of control cases have been labour-intensive in respect of investigations and legal follow-up. Due to a reprioritisation of resources to strengthen work on control cases, less resources than previously have been used on measures relating to price information and price surveillance.

3. A number of markets in Norway are characterised by historically established and natural monopolies. Some players in the market operate under conditions which require special regulation or public operation. There is a tradition of having important services within education, care and health services produced in the public sector. However, the borders between public and private service production are changing. Like many other countries in Europe, we are seeing a tendency for public services to be exposed to competition. New technology and changing needs are the driving force behind new services being offered alongside and in competition with the traditional services.

4. In 1999 the Norwegian Government put forward a proposal for certain amendments to the Norwegian Competition Act. Among other things, it was proposed that the Competition Authority be authorised to obtain and exchange confidential information in connection with co-operation with other countries' competition authorities.

5. At the same time the Ministry of Labour and Government Administration gave advance notice of a major, broader review of the Competition Act. Among the issues to be explored is whether the Competition Authority should be given competence to enforce articles 53 and 54 of the EEA Agreement.

6. Over the last two decades the tasks of the Competition Authority have changed in nature as regards content and complexity, especially because of greater focus on competition policy and the phasing out of direct price regulation. To meet these challenges a development programme is being implemented for the staff of the regional apparatus in order to raise the formal level of competence in economics. Also, an internal series of lectures within the subjects of competition law and economics has been held.

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

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

Unit pricing

7. In December 1999 a new regulation on price information for goods was passed. The EC directive on consumer protection on the indication of product prices offered to consumers formed part of the basis of this regulation. Two rounds of consultations were held and there was extensive contact with industry interests before the regulation was passed.

8. The regulation entered into force on 1 January 2000 and generally orders the statement of unit prices for goods sold to consumers. Unit prices make it easier for consumers to compare prices of different goods irrespective of the size of the packaging. It has been drawn up in line with the EC Directive and attempts have been made to harmonise regulations in the Nordic countries.

Vertical regulation

9. The new block exemption for vertical regulations passed by the European Commission in December 1999 has been implemented in Norwegian law. The regulation provides exemption for vertical agreements between two or more enterprises where the relevant market share is less than 30 percent, with certain specified exceptions.

2. Other relevant measures, including new guidelines

10. The Competition Authority has clarified when an acquisition is to be treated under the Competition Act's provisions on business acquisition (§ 3-11). The Authority finds it relevant to consider the degree of influence or control gained by the acquiring party through an overall assessment of the actual circumstances in the case. What constitutes a sufficient degree of influence will depend on various factors, e.g. the amount and type of shares bought, the actual influence on management decisions, e.g. through board representation, financial restraints, market specific competence and knowledge, the total ownership structure, and generally whether the acquisition will create incentives that may permanently alter the firms' behaviour in the markets.

11. The Authority has confirmed its continued treatment of «ancillary restraints» in connection with business acquisitions under § 3-11. Provided that an agreement is directly connected to the acquisition and necessary for its completion, it will be treated under § 3-11 as part of the acquisition. This practice is in line with the treatment of ancillary restraints in the EEA/EC competition rules.

12. The Authority has also determined when a joint venture is to be considered under the Competition Act's provisions on business acquisitions and when the prohibitions in the Competition Act are to be applied.

3. Government proposals for new legislation

13. The Competition Act of 1993 laid the foundations for a competition policy aimed at efficient utilisation of society's resources. The Act has now been in force for over six years and has functioned in

parallel with the competition rules set out in the EEA Agreement, which apply when trade in the European Economic Area is noticeably affected.

14. In January 1999 the Competition Authority forwarded a report to the Ministry of Labour and Government Administration with a draft for revision of the competition rules. The Government proposed certain amendments to the Competition Act in bill no. 97 (1998-1999) submitted to the Storting, the Norwegian Parliament.

15. According to the bill, the Competition Authority will be authorised to prohibit temporarily the implementation of business acquisitions until the Authority has carried out a final assessment of the acquisition. In addition, it was proposed that the Authority be authorised to obtain and exchange confidential information in connection with co-operation with the competition authorities in other countries.

16. The bill also signalled a desire for a broader review of competition policy and Norwegian competition rules. The proposal for modernising the rules on enforcement of the EC competition rules and signals of greater decentralisation of the enforcement of the competition rules from the Commission to national authorities raise issues concerning organisation of the competition authorities and the appeal system under the Norwegian Competition Act.

II. Enforcement of competition laws and policies

1. *Action against anticompetitive practices, including agreements and abuses of dominant positions*

a) *Summary of activities*

	1998	1999
i) Control and enforcement cases		
Dealt with	214	114
Dropped	97	92
Enjoined	114	20
Period Penalty Payment	0	1
Reported to the police	3	1
ii) Exemptions		
Handled	131	85
Granted	70	53
Rejected	1	6
Lapsed/cancelled	60	26
iii) Interventions		
Dealt with in total	52	69
Interventions	4	5
iv) Control of price labelling provisions		
Number of controls	2586	976
Infringements enjoined	1075	587

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17. The NCA has handled 114 cases concerning infringements of the prohibitions of price fixing, collusive tendering and market sharing. Most of them were minor. In one case period penalty payment was imposed, and one case was reported to the police.

18. The prohibitions of the Competition Act are enforced by ordinary control visits or, in serious cases, by seizing evidence supported by a court order. In the course of the year evidence has been seized in six cases in the following sectors: wholesale of electrotechnical products, furniture industry (two cases), sports items (two cases) and in the market for cleaning appliances.

19. In 1999 the Competition Authority handled a total of 85 exemption cases. In 53 cases exemptions were granted for all or parts of the co-operation concerned, of which 34 were applications for exemption re co-operation in chains or groups. 6 applications were rejected, whilst 26 cases concerned the lifting of earlier exemptions.

20. The conditions for granting exemption are a) that competition in the market concerned is increased (21 cases in 1999), b) that efficiency gains are expected to more than compensate for the loss due to restriction of competition (8 cases), c) that the restraints on competition have little significance for competition (22 cases) or d) that there are special grounds for doing so (6 cases).

21. In 1999 the Competition Authority considered 69 cases of collaboration involving restraints on competition and abuse of market power in accordance with its authority to intervene as set out in § 3-10 of the Competition Act. Interventions were made in 5 of the cases.

22. Less resources than previously were used on measures relating to price information and price surveillance. This was due to a decision to strengthen work on control cases as well as a decision to move towards advocacy efforts directed towards industry associations rather than carrying out time-consuming individual controls.

23. In Norway, the Ministry of Labour and Government Administration is the first instance of appeal for decisions taken by the Competition Authority. In 1999, six of the decisions made by the Authority were appealed to the Ministry of Labour and Government Administration.

b) Description of significant cases

i) Enforcements of the prohibitions

24. In January 1999 the Competition Authority carried out investigations of a number of wholesalers of electrotechnical products. The case concerns assumed infringement of the prohibition of price collusion in the form of suspected co-ordinated action in the period 1994-99. Investigations have been extensive. The case is expected to be concluded during the first half of 2000.

25. The Competition Authority has previously reported Dale Garn and Trikotasje to the police for unlawful retail price maintenance. In 1999 Dale accepted a fixed penalty of NOK 500,000 (EUR 62,500).

26. The Competition Authority ordered the fabric supplier Røros Tweed to pay a period penalty because the company failed to comply with the Authority's intervention against a refusal to supply. Røros Tweed appealed the period penalty payment, which was later rescinded by the Ministry of Labour and Government Administration.

27. In December evidence was seized at Gresvig, a retailer chain of sports equipment, due to suspected infringement of the Competition Authority's conditional merger approval in October 1997. This is the first time the Authority has followed up compliance with a decision in this way. Follow-up of the case was given high priority.

28. The furniture industry was the subject of two seizures of evidence in 1999. One case concerned suspected unlawful price collusion between two chains of furniture sellers, the other was based on suspected unlawful resale price maintenance.

29. In June 1998 the Competition Authority reported the companies ABB and Siemens and five people in these companies to the National Authority for Investigation and Prosecution of Economic and Environmental Crime in Norway. The case concerned suspected unlawful collusion on prices and tenders over several years in the market for technical supplies to power stations. The companies had a turnover of at least NOK 1,500 mill (EUR 188 mill) in this market over the period. In May 1999 the National Authority on Economic Crime issued penalties of NOK 13.5mill (EUR 1.7 mill) and 6.5mill (EUR 0.8 mill) respectively, which were immediately accepted. The case in respect of the persons reported was dropped.

30. The Competition Authority assisted the National Authority on Economic Crime with the assessment of the effects of the collusion and concluded that it had resulted in considerable excessive pricing for the two enterprises on a number of projects. Despite the fact that the penalties were amongst the highest given in antitrust cases in Norway, the Competition Authority questioned whether the sanctions had sufficient preventive effect.

ii) Exemptions from the prohibitions

31. In the grocery market, all of the four big umbrella organisations sought exemption for price fixing for one or more of their retail chains. The Competition Authority believes that such price fixing in the grocery market provides a basis for greater competition on price between the various umbrella chains. All applications were therefore granted on condition that the retailers are free to set lower prices than those stipulated centrally.

32. In 1999 members of the Bademiljø chain were granted exemption to collaborate on joint pricing of bathroom equipment. The Competition Authority has previously rejected a similar application for exemption from Bademiljø due to vertical links with the biggest distributor in the market. Once these ties were loosened the Authority found there to be a basis for exemption.

33. The Norwegian Independent Meat Association sought exemption to set recommended prices in the market for cut meat after the maximum price regulation for meat was lifted. The Competition Authority found that this co-operation might restrict competition without giving rise to efficiency gains outweighing the unfortunate effects. Neither could the Authority see any particular grounds to take into consideration. The application for exemption was therefore rejected.

The Film Rental Agreement

34. The Film Rental Agreement originates from 1953 and regulates the rental charges which the cinemas pay for films. It prevents cinemas and film bureaux from negotiating individual rental terms. Competition between both cinemas and film bureaux is restricted.

35. The Competition Authority considers that in the short term there is no real alternative to the Film Rental Agreement as a means to secure a proper supply of cinema services in the regions. The Agreement

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thus contributes to the achievement of cultural and regional policy aims. The Authority has exempted the Film Rental Agreement from the Competition Act on condition that cinemas shall be able to negotiate with film distributors to get earlier access to films against payment of a higher film rental charge than that specified in the Agreement. Only cinema owners are to be able to take the initiative for such negotiations. The Authority believes that this condition does not remove the basis of the Film Rental Agreement.

36. The National Association of Municipal Cinematographers appealed against the decision made by the Competition Authority. The Authority has given the appeal deferring effect whilst it is dealt with by the Ministry of Labour and Government Administration.

Standards for bonus calculation in automobile insurance

37. In 1999 the Competition Authority rejected an application from the Norwegian Insurance Association for exemption of a common standard for the calculation of bonuses on automobile insurance. In this context bonus refers to a discount on the premium which is granted on terms defined in more detail. There has been such co-operation in the industry previously, but in recent years there have been competing bonus systems. In 1997 the exchange of bonus information ceased. The total premiums for automobile insurance in 1998 amounted to around NOK 8,500mill (EUR 1,060 mill).

38. In the opinion of the Competition Authority an industry standard for calculating bonuses would restrict price competition in the market for automobile insurance. This would clearly be unfavourable to consumers. Moreover, the insurance companies' many criteria for risk assessment (vehicle make, year, locality, age and sex of the insured, etc.) meant that a common bonus system could only marginally make customers' choices easier. The Authority's rejection was appealed to the Ministry of Labour and Government Administration, which did not accept the appeal.

iii) Interventions – abuse of dominant position

Interventions in the agriculture market

39. On two occasions in 1999 the Competition Authority intervened in respect of the Norwegian Egg and Poultry Co-operative's terms for the slaughter of chickens and other fowl.

40. In large parts of the country the Norwegian Egg and Poultry Co-operative (Prior) is the only enterprise slaughtering fowl. Some of the Co-operative's regional organisations were offering egg producers different terms for the slaughter of fowl depending on whether they supplied their eggs to the egg co-operative or to the co-operative's competitors. The Competition Authority found that the differentiated conditions had a restraining effect on competition between the egg packing plants. Neither did any economic efficiency gains result from this arrangement, in the opinion of the Authority. A decision was therefore taken to prohibit Prior from setting different terms for the slaughter of fowl depending on where the producers supplied their eggs.

41. The Competition Authority also intervened in respect of Prior's refusal to buy table chickens on the grounds of "parent-imported" animals, i.e. imported brood stock. The refusal to deal concerned the only two hatcheries which are not members of the Egg and Poultry Co-operative. The Co-operative justified the requirement on the grounds that there are no longer restrictions on the import volume of live poultry and that provisions on quarantine for imported poultry have been lifted. Prior has around 90 percent of the market for table chickens, which the Authority believes gives Prior a dominant position in the market.

TONO

42. TONO is a co-operative society which manages the intellectual property rights in connection with public performance of music. The Competition Authority has intervened in respect of TONO's contracts with rights-holders and rules on voting rights within the organisation. The intervention means that the holders of the rights can choose to have TONO administer only some of their work. TONO also has to change the rules to enable more rights-holders to meet the requirements for becoming voting members of the co-operative. The decision has been appealed to Ministry of Labour and Administration.

Regulation of maximum prices for TAXI services

43. Taxi fares have long been regulated on the basis of § 3-10 of the Competition Act. Price regulation of taxi transport has been under discussion since the Competition Authority proposed that this regulation be withdrawn. The Ministry of Labour and Government Administration decided that the regulation of maximum prices could be rescinded in areas with two or more taxi centrals if the Authority considers that the conditions are proper for competition between the centrals. The price regulation will be rescinded in spring 2000 and the Authority will follow developments in the market carefully.

Municipal health studio - request for intervention

44. A municipality in Northern Norway runs a Sports Centre, which consists of sports halls, swimming pools and strength training studios. Operation of the centre is financed via the municipal budget, and rates for using the facilities are set by the local council.

45. In the opinion of the Competition Authority there are many indications that the municipality is indirectly subsidising the operation of the health studio, which is part of the facilities. The subsidy conflicts with the objective of the Competition Act concerning efficient utilisation of resources. It may lead to the only competitor in the area being forced out of the market leaving the municipal health studio in a monopoly position. If it is desirable to subsidise training in a health studio the subsidies should be as neutral to competition as possible.

46. The competence to intervene in cases directed at municipal bodies lies with the Ministry of Labour and Government Administration. The Competition Authority recommended the Ministry to intervene against the municipality's subsidisation of the health studio. The Authority suggested that the health studio be divested as a separate organisational unit and that the charge for training should basically reflect the actual costs of training in the health studio. A separate unit with independent accounts would also make it easier to control that the entity is being operated on equal terms with private players in the market.

47. The case involves issues of municipal independence, health policy, economic efficiency considerations as well as competition problems. Following an overall assessment of all of these aspects, the Ministry stated that it did not wish to intervene against the local municipality.

iv) Price information and price surveillance

48. Six price surveys were carried out in 1999, five of which were nation-wide. The surveys cover the prices of fuel, periodic checks on vehicles, telecommunications services, silver cutlery and furniture. Current electricity prices are displayed on the Competition Authority's home pages on the Internet, where they are constantly updated. It is the opinion of the Authority that publishing electricity prices has satisfied consumers' need for easily available information.

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49. The regulation on price information for services, which entered into force in 1998, has been followed up with checks and information to trade and industry. Modifications and interpretations have been organised in a number of sectors. So far the overall impression following the random checks indicates satisfactory compliance with the provisions, although certain sectors are lagging behind.

2. *Mergers and acquisitions*

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

Business acquisitions	1998	1999
Dealt with in total	46	31
Interventions	2	2

50. In 1999 the Competition Authority dealt with a total of 31 business acquisitions. 17 cases were dropped in an early phase of the process. In two cases the Authority intervened by imposing conditions on the acquisition, whilst in the other cases a decision was taken not to intervene following closer assessment.

b) *Summary of significant cases*

Aschehoug and Gyldendal's acquisition of the Universitetsforlaget publishing house

51. Aschehoug and Gyldendal have owned 25 percent of the Universitetsforlaget publishing house since 1988. In June 1999 they made a joint offer to the other shareholders in Universitetsforlaget to buy all the shares in the company. The Competition Authority approved this acquisition subject to conditions.

52. The Competition Authority believes that competition in the school book markets was significantly restricted already prior to the acquisition of Universitetsforlaget. Aschehoug and Gyldendal have significant market shares in these markets and the acquisition of Universitetsforlaget contributes to these two publishing houses acquiring an even stronger market position. The companies have opportunity and incentive to act jointly and can thereby exploit substantial market power in these markets. The acquisition of Universitetsforlaget results in an increase in the publishing houses' opportunity to exploit market power.

53. In discussions with the parties the Competition Authority found a solution which takes into consideration the competition problems. The solution involves Universitetsforlaget's schools editorial department and the Økonomiforlaget publishing house being sold to an independent third-party and Gyldendal buying Aschehoug's shareholdings in Yrkesopplæringen. In its consideration of the solution the Authority took into account the cost savings in which the acquisition of Universitetsforlaget is expected to result.

Intervention against Canal Digital Norge AS' acquisition of Norgeskanalen AS

54. In 1998 Canal Digital Norge acquired TV2's subsidiary Norgeskanalen, which distributes satellite-broadcast television signals to consumers using smart card technology. TV2 took over 16 percent of the shares in Canal Digital Norge as payment. At the same time Canal Digital Norge was given exclusive rights to distribution of TV2's satellite broadcasts.

55. The primary objection of the Competition Authority was that Canal Digital Norge was given exclusive rights to smart card distribution for TV2. Although the exclusivity agreement may also provide efficiency gains, the Authority believes that these gains cannot outweigh the economic loss of the restraint on competition.

56. The Competition Authority therefore prohibited TV2 from entering into agreements giving Canal Digital Norge exclusive rights to smart card distribution for the channel. The decision was appealed to the Ministry of Labour and Government Administration. In a decision of January 2000 the Ministry rescinded the Authority's decision because, based on the facts of this case, an incorrect legal basis had been applied in the intervention against the exclusivity agreement.

Felleskjøpene/Stormøllen/Statkorn

57. In 1999 Felleskjøpene - a purchasing co-operative in the agricultural sector - took over the energy feed activities of Stormøllen AS and 50 percent of the shares in Statkorn AS. Felleskjøpene has a high market share in the markets for energy feed and other agricultural inputs.

58. In large parts of the country Stormøllen has been the only competitor of Felleskjøpene in recent years as regards sales of these goods. The takeover of Stormøllen's energy feed activities means that Felleskjøpene is in a monopoly position in these areas.

59. Sales of grain are dominated by Felleskjøpet Øst Vest (the East West Co-operative) and Statkorn. Felleskjøpene's acquisition of Statkorn weakens competition between the two main players.

60. In the opinion of the Competition Authority competition in several markets affected was significantly restricted prior to the acquisitions. These transactions strengthened the restriction of competition. The Authority therefore notified that it would intervene against the acquisitions in November 1999. In February 2000 the Authority approved the acquisitions subject to certain conditions. Felleskjøpene must sell two production plants for energy feed and competitors must have first right to purchase any plant which Felleskjøpene closes down.

61. The Competition Authority has laid down other conditions which make it difficult for Felleskjøpene to use its position in Statkorn to prevent the formation of new grain trading companies or to impose worse terms on its competitors in the energy feed industry.

No basis for intervention

62. When Statkraft acquired a significant shareholding in BKK, the municipal power company of the Bergen peninsula, the Competition Authority initially notified its intention to intervene. However, after discussion with the parties it found that there was no basis for intervention.

63. Gyldendal acquired a large number of the bookshops in the Libris chain in 1999. Despite the fact that the Competition Authority believes that Gyldendal has market power at the publishing and distribution stage as a result of a significant joint ownership with Aschehoug, the assessment of the Authority was that the acquisition did not result in restraints on competition which provided a basis for intervention. However, the Authority pointed out that it will carefully consider any further acquisitions of bookshops carried out by Gyldendal in accordance with § 3-11 of the Competition Act, taking into consideration the high share of ownership that Gyldendal has in Libris and which provides Gyldendal with more information on and influence at the retail stage.

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International co-operation on merger control: The Telenor/Telia merger

64. The European Commission dealt with a number of important merger cases of significance for Norway. Amongst the most important individual cases are Telia/Telenor and the insurance merger between Storebrand/Skandia/Pohjola.

65. Following a request from the Ministry of Labour and Government Administration the Competition Authority drew up a report concerning the competition circumstances in the telecommunications sector in connection with the merger between Telia and Telenor. The report was also sent to the EFTA Surveillance Authority, which forwarded it to the European Commission.

66. The report focuses on an analysis of the competition situation in the markets in Norway in which Telenor and Telia's subsidiary Telia Norway AS have overlapping activities. The Competition Authority concluded that the merger would contribute to bringing about further restraints on competition in these markets. In view of this, the Competition Authority considered that Telia's activities in Norway should be sold to one or more other players.

67. The Commission took up the matter and following a thorough assessment found that the merger could not be regarded as compatible with the common market and the EEA Agreement.

68. After a process of consultation and meetings of the Advisory Committee the parties agreed on commitments which should ease competition problems. These include the sale of competing businesses in Norway, Sweden and Ireland, disposal of the parties' cable TV activities in Norway and Sweden and giving competitors access to the parties' networks for local access in Norway and Sweden.

69. The Commission approved the merger subject to conditions on 13 October 1999. The Competition Authority represented Norway in meetings with the Commission throughout the process.

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

Public measures

70. Under § 2-2 d) of the Competition Act the Competition Authority shall call attention to the restraining effects on competition of public measures, where appropriate by submitting proposals aimed at increasing competition and facilitating entry for new competitors. Work in this area includes the submission of opinions in consultation processes as well as direct references to anticompetitive conditions.

71. In 1999 the Competition Authority handled 182 consultation cases. In 78 of these cases the Authority had comments to make. In 17 cases the Authority called attention to restraining effects in accordance with § 2-2 of the Competition Act, of which ten were to ministries/directorates and seven to local authorities/county councils.

Contact with municipalities

72. In 1999 the Competition Authority had a special initiative directed at the municipal sector. The regional offices of the Competition Authority held visits and discussions with the administrative and political leadership of selected municipalities. 14 such municipal visits were carried out in autumn 1999, spread all over the country, and in 2000 efforts will be expanded to encompass a greater number of municipalities.

73. The municipalities account for a significant part of overall resource consumption in the public sector. The theme of the initiative towards the municipal sector is markets for municipal procurement. One objective is to make the purchasing staff of the municipalities aware of the prohibition of collusion on prices and tenders, so that the municipalities contact the Authority if there are any indications of such collusion. The Authority will contribute to creating greater consciousness in the municipalities of the significance of placing emphasis on competition and efficiency aspects in the purchasing and tendering processes. The Authority argues that the municipalities should start using written procurement rules and points out the advantages of using open forms of competition which do not favour particular suppliers. The Authority can also take up other types of competition matters by this form of contact.

Calling attention to distortion of competition

74. The Competition Authority has dealt with several cases in which private players have complained of conditions which distort competition with public goods and service production. Examples of cases include training in traffic safety by public players (the South Norway Naval District) as well as lodging and conference services (the state canteens organisation). It was pointed out to one municipality that activities connected with a nursing home in the municipality selling laundry services to private customers should be separated out as a distinct profit unit in the municipal budget. Such cases raised general competition issues concerning the organisation of public production in separate profit units and competition-distorting effects of public subsidy schemes.

Price information for telecommunications services

75. The need to improve price information in the markets for telephony services has been assessed. The provisions on price information in this sector are administered by the Norwegian Post and Telecommunications Authority. In consultation with the Post and Telecommunications Authority it was concluded that there was no need to change the current arrangements. However, a price survey of telecommunications services was carried out with a view to facilitating consumers' choice of supplier and product variant. The survey was carried out as a co-operation project between the Consumer Council of Norway, the Post and Telecommunications Authority and the Competition Authority.

Freight equalisation for petroleum products

76. In Norway the transport of fuel and heating oil is subsidised through the freight equalisation scheme for petroleum products. The costs of transporting petroleum products from the nearest depot have been calculated for all postal areas in Norway. No costs are covered in the immediate vicinity of the depots ("zero zones"). If petrol or diesel are transported outside a zero zone the incremental costs are covered. The scheme means that the oil companies get the same subsidy per litre supplied within the same postal area.

77. In its budget proceedings in autumn 1998 the Norwegian Government proposed a new self-financing freight equalisation scheme for fuel. The proposal was not passed by the Storting, which felt that the case had not been sufficiently prepared. A new proposal was therefore put forward in autumn 1999 in Odelsting bill no. 73 (1998-1999).

78. Having administrative responsibility for payment of transport subsidies, the Competition Authority has provided the Ministry of Labour and Government Administration with information and assessments of the economic and administrative consequences of various alternative proposals amending the arrangements. The Authority has issued general opinions on the economic consequences of the freight equalisation scheme.

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79. In the opinion of the Competition Authority the freight equalisation scheme for petroleum products results in economic costs in that there is less incentive for oil companies to distribute their goods efficiently. The benefit of the scheme is uncertain, since we can probably achieve the same regional policy objectives by other means. For the individual consumer the scheme is of little significance in most cases. The subsidies for transporting petrol and diesel are around a quarter of a percent of total sales.

80. The proposal for a self-financing scheme was not passed by the Storting. The state-financed scheme has been continued in the state budget for 2000. In its statement the Storting's finance committee required the Government to help new players in the petrol market gain access to established depots.

81. The Competition Authority had considered new players' access to depots in connection with an earlier case. At that time the Authority found that there was no basis to intervene against the established companies' right to dispose over their own storage facilities.

Opinions on fisheries and aquaculture

82. In 1999 the Competition Authority submitted opinions on a number of proposed amendments to the regulations on fisheries and aquaculture.

- *Draft regulation on unit quota schemes for the cod trawler fleet, the seine fleet and the Greenland prawn fleet, as well as the merger scheme for small trawlers*

83. This regulation deals with the conditions for the allocation and sale of quotas in fisheries, amongst other things. In the view of the Competition Authority the proposed restrictions on sales of quotas will in most cases result in inefficient use of resources in that the quotas will not accrue to those fishermen who are operating most efficiently and therefore have largest willingness to pay. Further restrictions on the saleability of the quotas must ensure the supply of raw materials to certain regions or land units. In the opinion of the Authority the individual fisherman should be free to supply his catch to the land unit which he finds it most profitable to supply, since this will contribute to efficient utilisation of society's resources.

- *Draft new act on sea ranching*

84. The draft new act on sea ranching deals with rules for the planting out and recapture of crustaceans, molluscs and echinoderms for nutritional purposes. The Competition Authority commented that the allocation of permits should take place through an auction scheme and that the permits should be saleable after allocation. In an optimally organised auction the permits will accrue to the most efficient players, who will therefore be willing to pay most for the permits. This will contribute to better allocation of sea ranching resources. The consultation draft also proposes regulation of production. Efficient utilisation of resources is best secured by the individual player in the market being able to adapt his production to demand in the market. In the opinion of the Authority, therefore, the production should not be regulated due to market considerations.

- *Draft rules on control of ownership changes within the farming of salmon and trout*

85. The concession scheme for farming salmon and trout involves the allocation of exclusive rights to sites along the coast. The proposal involves a restriction on the maximum farming concession volume allocated in which a single owner may hold majority interests, either directly or indirectly. The Authority pointed out that it is not possible to set a general limit on when acquisition is harmful in economic terms. Too low a limit may prevent realisation of significant efficiency gains. Moreover, it is not necessary to introduce the proposed restrictions on ownership from the point of view of competition because the

Authority can intervene against acquisitions which are unfortunate from a economic point of view, including within the aquaculture industry.

Agriculture

86. Agriculture is excepted from the provisions of the Competition Act prohibiting price collusion and market sharing. However, like all other trade and industry agriculture is covered by the Act's provisions on intervention.

87. In Norway agriculture is subject to a number of regulatory arrangements that do not exist in other sectors. The instruments used in agricultural policy are discussed in report to the Storting No. 19 (1999-2000) on Norwegian agriculture and food production. In this report it is pointed out that agriculture has many social tasks. The Government has emphasised the social benefit of agriculture in the short and the long term and wishes to increase the consumer orientation of food production:

“In line with society’s needs agriculture shall:

- produce high-quality, safe food based on consumer preferences
- produce other goods and services based on the overall resources of the sector
- produce public goods such as sustainable settlements, a broad range of environmental and cultural benefits and a long-term food supply.”

88. The report further stresses that agriculture policy shall provide the necessary conditions for efficient use of resources and that production must take place as cost-effectively as possible within the given framework conditions.

Subsidies

89. Agricultural subsidies include subsidies to primary producers, market regulation at the point of sale and import barriers. An indicator of the level of subsidies in the agricultural sector has been elaborated by the OECD and measures both direct and indirect subsidies to agriculture relative to the framework conditions of trade and industry in general. This indicator is known as the Producer Subsidy Equivalent (PSE) and is defined as the sum of budget subsidies and trade protection subsidies. In the case of Norway the indicator shows that subsidies to agriculture in 1998 amounted to 70 percent of the production value of the sector. Norway has one of the highest levels of agricultural subsidies in the OECD, along with Switzerland, Iceland and Japan. For the sake of comparison the EU average was 45 percent and the OECD average was 37 percent.

Regulation of the market at the point of sale

90. Market regulations at the point of sale contribute to restricting competition in several agricultural sectors. One reason for the failure of competition to function is the role which the co-operating players have as market regulator in the various sectors. This role results in significant asymmetrical access to information in (and about) the market. A co-operating player has a dominant market position because he has control over raw materials production and is at the same time responsible for market regulation.

91. The production of agricultural goods in Norway is so small that it scarcely has any influence on prices on the world market. In some cases prices on the world market are considerably lower than prices in Norway. Regulatory exports reduce domestic sales volumes and make prices higher than would otherwise have been the case. The sales council finances the scheme of sales duties.

V. Summaries of and references to new reports and studies on competition policy issues***Report on competitive terms in aviation***

93. In 1999 the Norwegian Ministry of Financial Affairs appointed a working group which in September submitted a report on the significance of various taxes and duties for the competition conditions in civil aviation. The working group was headed by a departmental director from the Competition Authority and other members of staff managed the secretariat for the working group.

Consultation statement on procedural rules

94. One important case for the Competition Authority has been the European Commission's White Paper containing proposals for revision of the procedural rules which apply to restrictive practices and abuse of dominant position. If the European Commission proposals are passed this will mean radical changes in the enforcement of the competition rules in the EEA Agreement. A Norwegian consultation process has been completed and an extensive Norwegian consultation statement drawn up, which has formed the basis of a statement by the EFTA/EEA countries in the case.

Nordic co-operation on enforcement

95. In 1998 the Nordic competition authorities appointed a working group where the subject-matter was Nordic co-operation on enforcement. The group submitted its report in December 1999, but is continuing to work on proposed guidelines and to discuss the possibilities of entering into agreements that are binding under international law.

Nordic co-operation on measurement of the intensity of competition

96. In co-operation with the other Nordic competition authorities a working group has delivered a report assessing the possibilities for drawing up various competition indicators for the economy.