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(1998)

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Executive summary

1. On 1 October 1998, amendments of the Act on Competition Restrictions (No. 480/1992) and related Acts came into force. The main amendment was the introduction of the *control of concentrations*. According to the new provisions, the Finnish Competition Authority shall be notified of concentrations where the combined world-wide turnover of the parties involved exceeds FIM 2 milliard (ca. USD 358 million) and the world-wide turnover of a minimum of two parties FIM 150 million (ca. USD 27 million). Additionally, it is required that the object of the acquisition or a merging entity or foundation, or an entity or foundation part of the same group, or a joint venture to be established conducts business, i.e. offers commodities, in Finland. The revised Act also includes provisions on competition restraints of minor importance, negative clearance and compensation of damages.
2. In June 1998, the Ministry of Justice set up a committee to investigate the possibility of converting the Competition Council into a special court or transferring its tasks to ordinary courts. At the same time, a working group was established to examine the position of the Market Court. The committee and the working group proposed, in February 1999, that a new special court be established which would handle all the issues now falling within the jurisdiction of the two organs.
3. In 1998, 278 new matters involving competition restraints were brought before the Finnish Competition Authority, and it resolved a total of 300 competition restraint issues. Additionally, the office made six initiatives and issued 63 written statements to other authorities in regulatory matters. The Finnish Competition Authority made four proposals to the Competition Council. The Competition Council issued 13 decisions in 1998. The Supreme Administrative Court issued two decisions on appeals made on Competition Council decisions.

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

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

1. On 1 October 1998, amendments of the Act on Competition Restrictions (No. 480/1992) (hereinafter the Competition Act) and related Acts came into force.
2. The main amendment was the introduction of the *control of concentrations* into the Competition Act. According to the new provisions, the Finnish Competition Authority shall be notified of concentrations where the combined turnover of the parties involved exceeds FIM 2 milliard (ca. USD 358 million) and the turnover of a minimum of two parties FIM 150 million (ca. USD 27 million). Additionally, it is required that the object of the acquisition or a merging entity or foundation, or an entity or foundation part of the same group, or a joint venture to be established conducts business, i.e. offers commodities, in Finland. The turnover thresholds relate to the world-wide turnover. Hence, the law also applies to concentrations where foreign firms are parties, provided that the two criteria are fulfilled.
3. The control of concentrations is applied to the acquisition of control, the acquisition of the entire business operations or a part thereof, a merger, and the setting up a joint venture which performs on a lasting basis all the functions of an independent economic unit. The control of concentrations applies to all industries.
4. If, as a result of the concentration, a dominant position shall be created or strengthened which appreciably impedes competition in the Finnish markets or a significant part thereof, the FCA can impose

conditions for the implementation of the concentration. The FCA negotiates about conditions with the parties involved but is not, in principle, dependent on the parties' proposals. If the harmful effects of a concentration may not be eliminated by attaching conditions, the FCA may propose to the Competition Council that the concentration be banned.

5. The revised Competition Act contains a special provision on intervening with concentrations in the electricity market, which is applied side by side with the general provision. The production, sales, and foreign trade of electricity were opened up for competition as of autumn 1995 and, on the part of small-scale consumers, from autumn 1998. The production and wholesale markets of electricity are highly concentrated in Finland and the operators therein possess a considerable market power. The purpose of the provision is primarily to control the vertical integration of the producers into the retail level. Hence, the Competition Council may, upon the proposal of the FCA, also ban an concentration, as a result of which more than a 25% share of the electricity transmitted at the voltage of 400 in the distribution grid is achieved on a national level.

6. Concentrations shall be notified to the FCA within a week from the acquisition of control or business operations, the publication of a public bid, the adoption of the decision to merge in the merging entities and the founding meeting of a joint venture. Following the receipt of the notification, the FCA shall, within one month (first stage of investigation), decide whether the concentration shall be subject to further investigation (second stage of investigation). Within three months from the decision to initiate further proceedings, the FCA may attach conditions on the concentration or make a proposal to the Competition Council if it wants to ban the concentration. Conditions may also be attached during the initial stage of the investigation. The Competition Council shall give its decision within three months from the date of having received the proposal.

7. Concentrations shall not, as a rule, be carried out or put into effect while the proceedings are still pending, unless their execution is allowed by a separate decision. During Competition Council proceedings, the ban to put a concentration into effect shall be lifted unless the Council, within one month from the proposal of the FCA or from the lodging of an appeal, shall order otherwise. A competition infringement fine may be imposed for a violation of the obligation to notify or a ban to put a concentration into effect.

8. A provision on *competition restraints of minor importance* was also introduced into the Competition Act. This enables a better allocation of the FCA's resources to the investigation of significant cases. Under the provision, the FCA may decide not to take action if the competition restriction only exhibits a minor effect on economic competition.

9. The FCA may refrain from taking action when competition in a market may be considered workable as a whole, or when the restraint otherwise has a minor effect for the safeguarding of competition. Attention shall be paid to the effects of the restraint on the functioning of the markets, the benefit of consumers and the securing of the freedom of trade. As a general rule, when the market share of the parties to an agreement in the relevant markets is less than 5%, the restraint is conceived of as being of minor importance. With respect to prohibited restrictions, when an intervention is planned, special attention should also be paid to whether the practice has been abandoned, whether it involves a naked restriction and whether it is apparent that the Competition Council would not impose an infringement fine. Naked restrictions are intervened with regardless of the market share.

10. In order to improve the legal security of companies, a provision on *negative clearance* was introduced into the Competition Act. Upon application, the FCA may issue a decision where it states that an agreement, decision or procedure of the applicant does not fall within the scope of the prohibitions of the law, abuse of dominant position excluded.

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11. According to the new provision on the *compensation of damages*, an entrepreneur who intentionally or negligently violates the Competition Act or any rules or regulations issued under it, is liable for compensation to another entrepreneur for the damages caused. The objective of the provision is to place entrepreneurs suffering from a competition restraint in an equal position, irrespective of whether there exist contractual relations between the party suffering from damage and the party causing it. The purpose is to clarify the compensation of property damage resulting from a competition restraint, particularly in those cases where no contractual relations exist.

12. For the prohibited competition restrictions, the liability to compensate arises directly from the law, e.g. with respect to resale price maintenance; horizontal cartels (price-fixing, market-sharing and restriction of production) and abuse of dominant position. As for other competition restraints assessed on the basis of the rule of reason principle, what is required is an injunction from the Competition Council.

2. *Other relevant measures, including new guidelines*

The decisions (2) of the Ministry of Trade and Industry on the control of concentrations and the FCA's Guidelines and Notice

13. Following the amendment the Competition Act, the Ministry of Trade and Industry issued, on 1 July 1998, decisions on the obligation to notify a concentration (No. 499/1998) and on the calculation of turnover in concentration cases (No. 498/1998). The former includes a list of information which shall be delivered to the FCA when a concentration is notified. In individual cases, the FCA may grant derogations to the obligation to supply information.

14. In September 1998, the FCA issued guidelines on the control of concentrations where the procedural rules of the control are examined in detail and information given on the principles applied in the assessment of the acceptability of the concentrations. The FCA has also issued a notice on competition restraints of minor importance where the criteria used in the assessment are presented.

15. Due to the provision on negative clearance, the office has also issued new instructions for applying for exemptions and negative clearance.

The committee examining the position of the Competition Council

16. In June 1998, the Ministry of Justice set up a committee to investigate the possibility of converting the Competition Council into a special court or transferring its tasks to ordinary courts. This had been requested by the Parliament in the context of the amendment of the Competition Act. One option was to combine the Competition Council and the Market Court into a new special court. At the same time, a working group was established to examine the position of the Market Court.

17. The Competition Council is presently an administrative judicial body which may order, upon the proposal of the FCA, that a competition restraint be terminated and impose a competition infringement fine for a violation of the prohibitions of the law. Additionally, matters solved by the FCA as a first instance may be appealed to the Competition Council, such as decisions in negative clearance and exemption cases and attaching conditions for the implementation of the concentrations. Appeals to the decisions of the Competition Council may be sought from the Supreme Administrative Court, excluding exemption decisions, negative clearance and an extension to the time-limit of assessing a concentration. Additionally, the Competition Council processes public procurement issues, excepting claims for damages. There are

nine members at the Competition Council who all work on a part-time basis and have the same right to stay in office as a judge.

18. The Market Court handles issues related to consumer protection and unfair competition, in particular, such as false and misleading advertising and unreasonable contractual terms.

19. The committee and the working group proposed, in a report published in February 1999, that a new special court be established which would handle all the issues now falling within the jurisdiction of the Competition Council and the Market Court. In the investigation of both competition restraints cases and issues falling within the scope of the Market Court, the need for speed and use of expert members is emphasised. In public procurement issues, it is particularly important to achieve a quick solution. Common to the issues of the two organs is that the cases to be solved involve the functioning of the economy and the parties involved consist of entrepreneurs and authorities. It was suggested that the proposed special court function in two departments in order to best benefit from the expertise accrued to the two special organs currently operating. One department would handle competition restraints cases and public procurement issues and the other the matters currently dealt with by the Market Court.

20. Two dissenting views were recorded into the final report of Competition Court Committee, one of which was that of the Chairman of the Competition Council, and the other the representative of the Finnish Competition Authority. They wished to emphasise the need for different kind of expertise in competition issues and held that sufficient synergy benefits cannot be achieved by combining the decision-making. They thus favoured the setting up of a special court to handle the issues now falling within the scope of the Competition Council.

II. Enforcement of competition laws and policies

1. Action against anticompetitive practices by competition authorities (agreements and abuse of dominant positions)

a) summary of activities of competition authorities

21. In 1998, 278 new matters involving competition restraints (deregulation statements and initiatives excluded) were brought before the FCA. Of these, 69 per cent were complaints; 11 per cent were exemption applications; 6 per cent were cases initiated by the FCA itself; and 14 per cent were other matters, including inquiries of minor importance. Following the amendment of the Competition Act, which became effective on 1 October 1998, no applications for negative clearance had been delivered to the office by the end of the year.

22. In 1998, the FCA resolved a total of 300 competition restraint issues (deregulation initiatives and statements excluded); in 80 cases, by means of a decision, of which 31 concerned exemption applications. A total of 139 cases were concluded by an administrative letter. Of the 357 decisions made in 1997, 68 were solved by means of a formal decision, of which 9 concerned exemption matters. Hence, compared to 1997, the relative number of formal decisions has risen (cf. the annexed diagrams below).

23. In 1998, the FCA made four proposals to the Competition Council on terminating a competition restraint prohibited in the law; in three cases, a competition infringement fine was also proposed.

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24. 24. The Competition Council issued 13 decisions in 1998. In addition, the Competition Council has applied the Competition Act in a few public procurement cases.

25. 25. The Supreme Administrative Court issued two decisions on appeals made on Competition Council decisions.

b) Description of significant cases

1. Cases handled by the Supreme Administrative Court

26. As stated in the previous annual report, the Competition Council imposed, on 24 October 1997, on the Finnish dairy products company *Valio Oy* a competition infringement fine of FIM 5 million for an abuse of dominant position in the Finnish liquid dairy product markets. According to the rebate table applied by Valio, the retailers were granted discounts from the prices of liquid dairy products on the basis of the average value of all the products (liquid dairy products, cheese, fats, ice-cream, snacks and juice) obtained from Valio. In order to obtain a full discount, retailers had to concentrate all the purchases of liquid dairy products to Valio, which had the effect of tying customers and excluding competitors from the markets. Additionally, the marketing money employed by Valio and granted on the basis of total purchases had the same effect. The amount of marketing money varied according to the level of competition in different regions of the country, and customers who were equals measured by their total purchases could receive different amounts of marketing money. The Competition Council did not allow Valio's claim that it was a question of lawfully meeting competition. The Council found that Valio also sought to capture the markets and strengthen its market dominance.

27. The Supreme Administrative Court came to the same conclusion as the Competition Council and dismissed, by its decision of 11 November 1998, the appeal lodged by Valio on the Council's decision. In its decision, the Supreme Administrative Court expressly stated that Valio has been found guilty of an abuse of dominant position under Article 86 of the EC Treaty, in addition to the national legislation.

2. Cases handled by the Competition Council

Administering of copyrights

28. Teosto ry monitors and administers musical and literary copyrights in Finland. The Competition Council has previously confirmed that Teosto holds a dominant position in the collective administering of musical art in Finland.

29. In its proposal to the Competition Council, the FCA held that Teosto had collected different sized royalties from the mutually competing public broadcasting company Yleisradio and the commercial television company MTV, which had amounted to discriminatory pricing forbidden under the Competition Act (cf. the Annual Report of 1996). Yleisradio had justified the different levels of royalties by the different financial resources of the two companies. The financing of the MTV group producing commercial television programmes is based on the selling of national and regional advertising space, whereas the financing of the national Yleisradio is based on television licence fees and the public service fee and network rent obtained from the MTV.

30. The Competition Council found in June 1998 that it had remained unestablished whether Teosto had in fact been guilty of a forbidden abuse in collecting the different sized royalties from Yle and the

MTV. MTV's royalties are composed of broadcasting music on television, whereas the Council found that Yle's compensation mainly consists of airing music on the radio, and to a minor extent only, of supply directed to television viewers. The Council paid particular attention to the economic value of exploiting copyrights: this differs substantially on the television and on the radio. The Council held that Teosto's price per minute, 2.5 times higher on television, was not unreasonable, even internationally speaking.

31. The Competition Council found, however, that the confirming of royalties in a manner which does not differentiate between the compensations of music broadcast on the television as opposed to on the radio did not meet with the criteria of clear and transparent pricing referred to in the Competition Act. MTV has appealed the decision to the Supreme Administrative Court and continues to find that the compensations collected from it are unreasonable and discriminatory. The matter is pending at the Supreme Administrative Court.

Refusal to grant an exemption to the horizontal co-operation of bus companies

32. By its decision of 30 March 1998, the Competition Council dismissed the exemption application of the local bus company Turun Linja-autoilijain Osakeyhtiö (TLO). The Competition Council agreed with the FCA and found that the co-operation conducted by the bus companies on pricing and market sharing within the framework of the so-called general tariff agreement violated the Competition Act, and an exemption according to Article 19 of the Act could not be granted. Based on the general tariff agreement, the city of Turku committed to buying transport services directly from the 22 member associations of the TLO without the tendering required in the public procurement legislation. Due to the city abandoning tendering, the TLO granted a 3.5% additional discount for its services.

33. In its decision, the Competition Council paid attention to the increased competition from other EU countries in the Finnish bus traffic market. The maintenance of a cartel between the bus companies and the neglect of tendering by the bus companies also violated the aims and effects of Articles 85 and 59 of the EC Treaty and the Directives on Public Procurements. Hence, granting permission to an arrangement impeding competition coming from other Member States and foreclosing the market was not possible in view of Article 5 of the Treaty.

Application of the Competition Act to sports

34. In its decision on the Finnish Basketball case, the Competition Council confirmed that the Competition Act could be applied to sports containing business-like features. The Council found the prerequisite to be that the economic activity was sufficiently extensive and that certain features of business activities were present. The Council thus shared the FCA's view that the Competition Act could be applied to the arranging of men's basketball games on the Finnish Masters level and hence to the rules of entry of the Finnish Basketball Association. The Competition Council also confirmed that the Association holds a dominant position with respect to its members in deciding the rules of the Finnish Masters level games. The case in question concerned the rules applied to the basketball teams seeking entry into the Masters Series and the practice of the Finnish Basketball Association in applying them, i.e. no attention was paid to the possible substitutability of basketball by other sports.

35. The Finnish Basketball Association and the Finnish Sports Federation, the co-ordinating body of all Finnish sports organisations, had appealed the FCA's decision to the Competition Council, excluding the abuse of dominant position. The Finnish Sports Federation has also appealed the Council decision to the Supreme Administrative Court, where the matter is pending.

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3. Cases handled by the Finnish Competition Authority

Refusal to grant an exemption to horizontal co-operation in the daily consumer goods market

36. By its decision of 4 December 1998, the FCA did not grant an exemption to the chain-specific horizontal retail price co-operation of the basic products of the K-Group's daily consumer goods trade. Nor was an exemption granted to the harmonisation of other sales and delivery terms, purchasing prices or other purchase terms because the applicants had not presented sufficient grounds to support their application.

37. The K-Group is the biggest daily consumer goods group in Finland with a market share of ca. 40% in the retail sales of daily consumer goods. The group consists of seven chains conducting daily consumer goods trade. Its operations are co-ordinated by Kesko Oyj, the central company of the chains.

38. In its deliberations, the FCA considered the sparsity of the national daily consumer goods distribution channels in Finland and the considerable market share of the applicants. The FCA held that the cost-savings obtained by the new forms of co-operation would not accrue to the retail prices to a sufficient extent because, in spite of the great purchasing power and other co-operation forms of the group, the K-Group's daily consumer goods stores of all formats have been found the most expensive of all the trade groups.

39. The negative decision was also affected by the previously granted exemptions to the chains of the K-Group, allowing the stores part of the chains to conduct purchasing and sales co-operation in the context of sales campaigns and to agree on the maximum prices of the K-Group's own brands.

General exemption to chain-specific horizontal short-term sales campaigns

40. The FCA granted, on 24 February 1998, a general exemption to certain chains of the retail trade and the service industries in fixing the prices used in the marketing of short-term sales campaigns. The exemption also covers agreeing on the sales prices of the products purchased for the said campaigns.

41. The exemption is effective for five years and is a continuance to the previous four-year exemption, with certain modifications. The new exemption differs from the previous one in that the maximum duration of a sales campaign may now be two months in the daily consumer goods trade, too, compared to the previous one month. The exemption is now also fully effective to the service sector. It applies to products and services, irrespective of whether the services are so-called franchising services or others. Joint purchases of the products are no longer a prerequisite for the application of the decision.

42. The application of the exemption requires that the entrepreneurs belong to the same chain or co-operation group, and that the customers or consumers are able to distinguish the entrepreneurs from other competing entrepreneurs. Additionally, it is required that the entrepreneur party to the co-operation may undercut the agreed price and advertise the campaign product independently and that the jointly marketed services and products have been standardised in such a manner that their content and quality is the same in all companies participating in the campaign.

43. The condition of the exemption is that the joint market share of the companies agreeing on prices does not rise above 30% in the markets affected by the price co-operation.

Abuse of dominant position in the import and wholesale of alcoholic beverages

44. The FCA found Alko, who has a exclusive right to the retail sales of alcohol in Finland, guilty of an abuse of market dominance in the alcohol beverage market. The FCA held that the pricing practice applied by Alko was discriminatory of the different product groups, particularly because the alcohol content of the products affected the size of the compensations collected by Alko. The FCA also found it an abuse of dominance that Alko had not announced to the suppliers its readiness to make reductions in its own fee in cases where the suppliers wanted to directly deliver the goods to the retail outlets themselves. At the same time, some minor tying practices were found which strengthened Alko's position in the import and wholesale market. These were related to the fixing of minimum sales limits, announcing import prices, the combining of retail and wholesale purchases and the use of the retail outlets for the orders and distribution of Alko's restaurant sales.

45. However, Alko quickly modified its behaviour. Because of this and the major deregulatory changes that have taken place on the alcohol market scene since 1994, the FCA did not make a proposal to the Competition Council.

46. In its decision, the FCA required that Alko quickly remodel the system of introducing new products into its selection together with the National Product Control Agency for Welfare and Health, the special authority monitoring the fairness of Alko's monopoly operations, in such a manner that the objectivity and transparency of the operating methods removes allegations of discrimination and uncertainty about the content of the criteria applied.

47. Attention was paid to the views of the EU Commission and the Finnish Competition Authority when the Cabinet Committee on Economic Policy decided that action be taken to divide Alko Oy from the Alko Group. This division and the reorganisation of Alko's duties will be carried out during 1999. The FCA further proposed that, in connection with the division, Alko should also divest its import and restaurant wholesale operations. The FCA has received three complaints of an alleged cross-subsidisation related to the import and restaurant wholesale business during the past year.

Abuse of dominant position in the pricing of newspaper advertising

48. The FCA proposed to the Competition Council that the provincial newspaper Lapin Kansa Oy held a dominant position in the newspaper advertising market of its circulation area and that the company had abused its dominance and violated the Competition Act by applying a tying and discriminatory rebate and pricing practice. The company had required that its customers concentrate all their advertising into Lapin Kansa and granted loyalty rebates for the achieving of certain advertising quotas. The conditions applied to the advertising customers were mutually inconsistent and, by the same amount of advertising, the customers received different sized rebates. The biggest rebates amounted to ca. 80% of the listed prices. The FCA proposed that the Competition Council order that Lapin Kansa terminate its behaviour and impose on it an infringement fine of FIM 200 000. After the company had announced it would transfer to a more transparent pricing and abandon its tying and discriminatory terms, the FCA informed the Council it would drop its proposal on fines.

49. Although the proceedings on the matter are still pending at the Council, the FCA's decision has already affected the pricing of Lapin Kansa's and other papers advertising space; the conditions distorting competition have been removed from the companies' price lists. Other regional papers have also paid attention to the office views in their pricing. The changes made in the pricing of the advertising space have, in addition to improving the advertisers' possibilities to compare prices and to choose an advertising

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medium best suited for each occasion, also improved the operating possibilities of the media competing with the provincial newspapers, such as free sheets.

The alleged underpricing of mobile phones

50. The Finnish mobile phone services are operated by two national network operators, Sonera Oy (previously state-owned Telecom Finland Oy) and Radiolinja Oy. At the end of 1997, the market share of Sonera in the mobile phone services was ca. 64% and of Radiolinja ca. 36%. Kodintekniikkaliitto, the Finnish trade association of household appliance and maintenance stores, had complained to the FCA that particularly the mobile phone sellers co-operating with Radiolinja sell phones below the general purchasing prices, due to the excessive operators' fees paid for the sales of the mobile connections.

51. The FCA found that the subsidies paid by the operators to the retailers amount to a compensation for the distribution of the connections but, at the same time, they spur the retailers to distribute as many connections as possible. In some cases, the support received by the retailers is so extensive that it is possible to sell the phones below costs. This may, in turn, distort the structure of the mobile phone trade and restrict the conducting of business by some retailers.

52. So far, it has not been shown that the subsidies paid by Radiolinja or Sonera has had a major effect for the retail structure of mobile phones. Nor is there evidence for the paying of the subsidies harming or preventing the entry of new retailers. The competition between the operators has, however, increased competition in the retail sales of mobile phones by making it possible to lower the retail prices. All retailers fulfilling certain criteria also had the possibility to conclude a co-operation agreement with either one or both operator, and the compensations or other forms of support paid by Radiolinja or Sonera for selling the connections could not be seen to discriminate retailers. Due to this, the FCA held there was no cause for further measures under the Competition Act.

2. *Mergers and acquisitions*

Statistics on concentrations notified and surveillance activities of competition authorities

53. The provisions of the Finnish national competition legislation on a compulsory merger pre-notification regime became effective on 1 October 1998. By the end of the year, the FCA had been notified of 6 concentrations. During 1998, four of these were approved as such during the initial stage of proceedings and two cases were still open by the turn of the year. During the first three months the provisions on the control of concentrations were applicable, the FCA did not make any proposals to ban a concentration, or attach conditions on them. In two decisions, all the competition restraints concluded by the parties were not accepted as ancillary restraints, however.

54. In the issues decided during 1998, one concerned the acquisition of control and three involved the acquisition of business activities. In one case, all the parties were Finnish firms; in another, all were foreign, and in two cases, at least one of the parties was a foreign firm.

III. **The role of competition authorities in the formulation and implementation of other policies, regulatory reform**

55. In 1998, the FCA made six initiatives and issued 63 written statements to other authorities in regulatory matters.

56. Within the field of finance, the FCA made an initiative to the Ministry of Finance in which it proposed that the ministry take action to dissolve the monopoly of the state-owned Postipankki Oy (currently Leonia Bank) in the state payment traffic. The FCA held that the exclusive right of the Leonia Bank causes inefficiency in the management in the state payment traffic, since the bank has no incentive to make its operations more efficient due to lack of competition. Additionally, the sole right gives Leonia an undue competitive benefit. The FCA also appealed to the liberalisation of banking services within the EU. The possibility of competition should also extend to state payment traffic, if the services of incumbent operators are used. FCA's initiative required that the exclusive right shall be dissolved as soon as possible, irrespective of when the privatisation of Leonia would occur.

57. The FCA also sought to contribute to the creation of competition on the railways. It requested wider competition than a working group who left its final report in 1998 and whose proposals would mean that ca. one half of the railway traffic, now managed by VR Osakeyhtiö, a subsidiary of the transport service group VR, would be opened up for competition. The FCA held that, in addition to domestic freight traffic and local traffic in the capital city area, the traffic between Finland and Russia as well as long-distance passenger traffic should be opened up for competition. In addition, to secure the equal competitive position of the companies conducting railway traffic, the division of the rail network capacity and providing instructions for the organising of the railway stations and station yard activities between the companies should be left to the Finnish Rail Administration and not be negotiated with VR. The training of railway personnel should be transferred to a party independent of VR.

58. In Finland, the Slot Machine Association RAY has a sole right for lottery operations. The FCA issued a statement on the proposed reform of the Lotteries' Act to the Ministry of Interior where it objected to the tightening of the legislation. The proposed that small non-cash prize lotteries, slot machines with non-cash prizes and quizzes would be decreed the sole right of non-profit foundations and the sales of lottery tickets abroad would be banned as well as the arranging of lotteries in ways other than those separately prescribed in the law. The FCA also proposed for consideration whether the socio-political and national economic grounds for the maintenance of monopolies still hold to their present extent. It was also demanded in the statement that RAY dissolve its subsidiary Pelika RAY Oy, who operates amusement machines and jukeboxes.

IV. Resources of competition authorities

1. Finnish Competition Authority

1. Resources overall

- a) Annual budget: FIM 20 million/USD 3.6 million for 1999 (FIM 17.5 million/USD 3.2 million for 1998).

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b) Number of employees (person-years):

	Enforcement against anti-competitive practices and control of concentrations	Support activities, incl. International affairs, information services, administration and secretariat services
Economist	17	4
Lawyers	12	1
Other professionals	5	4
Support staff	-	11
All staff combined	34	20 = Σ 54

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

a) Enforcement against anti-competitive practices:	24 person years
b) Merger review and enforcement:	1.2 person years ¹
c) Advocacy efforts:	1.8 person years
Total	27 person years

Support activities (incl. international affairs, information services, administration and secretarial services), training and public relations are not included in these figures.

3. *Period covered by the information:* Year 1998; for 1b) situation on 31 December 1998.

2. **Competition Council**

Resources overall and their application

59. The secretaries of the Competition Council prepare and present the issues to be handled by the Council. In 1998, Competition Council had recourse to less than 2.5 person-years (secretaries), of which less than 1 person-year (c. 33 per cent) was used in enforcement against anti-competitive practices, as the Competition Council also processes public procurement issues. All secretaries of the Competition Council are lawyers.

1. Situation for 1 October - 31 December 1998.

V. References to new reports and studies on competition policy issues

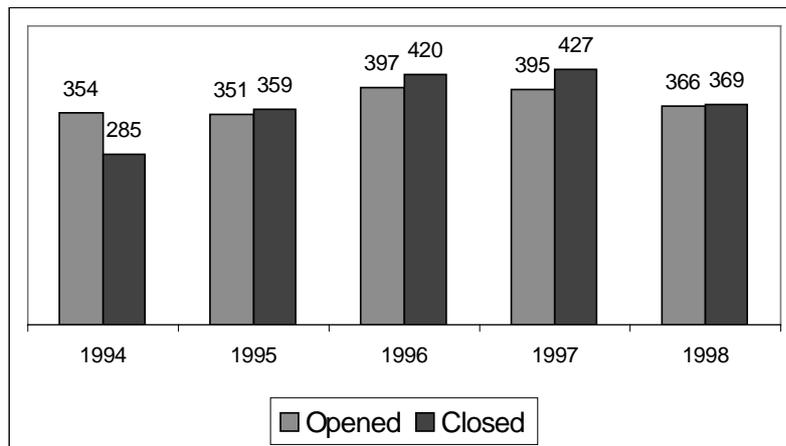
60. In 1998, the FCA published the following reports:

1/98 Jukka Kortesiemi: *Oligopolistic Dominance in EC Competition Law* (in English)

2/98 Heli Korpipää: *EY:n sakkokäytäntö kilpailuasioissa* (The Practice of Fines in EC Competition Cases)

*Annex***1998 ENFORCEMENT STATISTICS**

Graph 1.
Opened and closed competition restraints cases (no)
(deregulation statements and initiatives included) during 1994 –1998



Graph 2.
Enforcement statistics 1998 (deregulation statements and initiatives excluded)

<i>Enforcement statistics 1998</i>	<i>Pending 1.1.1998</i>	<i>Opened 1.1.-31.12</i>	<i>Closed 1.1.-31.12.</i>	<i>Pending 31.12.1998</i>
<i>Complaints</i>	161	192	183	170
<i>Exemption applications</i>	20	31	39	12
<i>Cases initiated by the FCA itself</i>	30	17	19	28
<i>Inquiries etc.</i>	17	38	42	13
Total	228	278	283	223

Graph 3.
Cases closed during 1996-1998 (deregulation statements and initiatives included).

<i>Cases closed during 1996-1998</i>	<i>1996</i>	<i>1997</i>	<i>1998</i>
<i>Decisions</i>	66	59	49
<i>Exemption applications</i>	9	9	31
<i>Letters</i>	157	165	139
<i>Statements</i>	76	64	63
<i>Deregulation initiatives</i>	9	6	5
<i>Others</i>	103	124	82
<i>Total</i>	420	427	369

Cases closed according to type of competition restraint in 1998 (%):

<i>Horizontal</i>	30%
<i>Governmental</i>	25%
<i>Dominant position</i>	23%
<i>Vertical</i>	14%
<i>Procedural</i>	8%