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## **Executive Summary**

On 24 March 1998, the Finnish Parliament passed a bill on the amendment of the Act on Competition Restrictions (No. 480/1992). The main amendment will be the introduction of the control of concentrations: the provisions shall apply to concentrations where the combined turnover of the parties involved exceeds FIM 2 milliard and the turnover of a minimum of two parties FIM 150 million. The revised Act will also include provisions on competition restraints of minor importance, negative clearance and compensation of damages.

In 1997, 331 new matters involving competition restraints were brought before the Office of Free Competition (hereinafter OFC). The OFC resolved a total of 357 competition restraint issues. The OFC made seven proposals and referred one appeal involving an exemption application to the Competition Council. The Competition Council issued 9 decisions in 1997. The OFC also lodged one appeal with the Supreme Administrative Court.

On 24 October 1997, the Competition Council imposed on Finland's major dairy products company Valio a competition infringement fine of FIM 5 million for its abuse of dominant position on the national liquid dairy products markets. Valio had applied a tying rebate table of liquid dairy products. The rebates were calculated on the basis of the average value of all the products the retailers obtained from Valio but were only granted from the prices of the liquid dairy products.

On 6 June 1997, the Competition Council sentenced the Finnpap marketing association and its member companies, the Finnish paper manufacturers Metsä-Serla, Myllykoski, Veitsiluoto (currently Enso) and Yhtyneet Paperitehtaat (currently UPM-Kymmene) to a competition infringement fine of FIM 5.5 million for a forbidden co-operation practised within the framework of the association. The Finnpap collaboration included the fixing of sales volumes and prices, a joint limiting of production, and market sharing.

During 1997, the OFC granted exemptions e.g. to the joint selling of electricity; to company-specific agreements in the raw wood trade; to electronic cash card collaboration; and to collaboration within international telecommunications products. The OFC also proposed that the Competition Council find the calendar publisher Ajasto guilty of an abuse of dominant position because of its discriminatory discount pricing.

Additionally, in 1997, the OFC made six initiatives and issued 64 written statements in regulatory matters.

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

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

1. On 24 March 1998, the Finnish Parliament passed a bill on the amendment of the Act on Competition Restrictions (No. 480/1992) (hereinafter the Competition Act) and related Acts. The purpose of the reform is to enforce competition legislation and to improve the legal certainty of companies. The new provisions bring with them new tools to tackle restrictive actions.

2. The main amendment will be the introduction of control of concentrations into the Competition Act. The provisions shall apply to 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 corporation or entity part of the same group engages in business activities in Finland. The concentration shall be notified to the OFC within a week after its conclusion.

3. 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 OFC may propose to the Competition Council that the concentration be banned. If the harmful effects of the concentration may be eliminated by imposing conditions for its implementation, the OFC shall negotiate with the parties involved on such conditions.

4. Following the receipt of the notification, the OFC shall, within no more than one month, declare whether the concentration shall be subject to further investigation. Within three months from the decision to initiate further proceedings, the OFC shall make a proposal to the Competition Council on the opposing of the concentration. The Competition Council shall give its decision within three months from the date of having received the proposal. The concentration shall not be carried out or put into effect while the proceedings are pending, unless its execution is allowed by a separate decision.

5. The revised Competition Act contains a special provision on concentrations in the electricity markets, according to which the Competition Council may, upon the proposal of the OFC, ban an concentration, as a result of which more than a 25 percent share of the electricity transmitted at the voltage of 400 in the distribution grid is achieved on a national level. The production, sales, and foreign trade of electricity were opened up for competition from 1 November 1995 and, on the part of small-scale consumers, are expected to open up during 1998. The objective of the special provision is the prevention of concentrations increasing vertical integration and limiting competition. Vertical integration in the electricity markets may cause competitive problems, particularly because the production and wholesale markets of electricity are highly concentrated in Finland and the operators therein possess a considerable market power.

6. The control of concentrations shall apply to all industries. With the thresholds quoted, it is assumed that approximately 25-40 concentrations will be appraised each year.

7. A provision on competition restraints of minor importance will also be included. Under the provision, the OFC is allowed not to take any measures if a competition restraint only exhibits minor effects on economic competition. When minor importance is assessed, particular attention shall be paid to the effects of the restraint on the functioning of the markets; the benefit of the 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 percent, it is conceived of as having a minor importance on economic competition. Naked restrictions, however, are intervened with, regardless of the market share. The new provision enables a better adjustment of the OFC's resources to the investigation of significant cases.

8. A provision on negative clearance will be included in the Act in order to improve the legal security of companies. It is possible to apply for negative clearance from the OFC for the prohibitions of the Act, abuse of dominant position excluded.

9. According to the provision on the compensation of damages, also to be included into the revised Competition Act, 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 damage(s) caused. The objective of the provision on the compensation of damages is to place entrepreneurs suffering

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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.

10. Based on the new provision on the compensation of damages, e.g. in cases of resale price maintenance; horizontal sharing of markets or sources of supply; production limitations; price agreements and abuses of dominant position, the liability to compensate arises directly from an unlawful act. In other vertical competition restraints cases than resale price maintenance, assessed on the basis of the abuse principle, it is required that the Competition Council has issued an injunction which an entrepreneur violates.

11. The amendments of the Competition Act are expected to enter into force in autumn 1998.

## II. Enforcement of competition laws and policies

### *Action against anticompetitive practices by competition authorities*

#### *a) Summary of activities of competition authorities*

12. In 1997, 331 new matters involving competition restraints were brought before the OFC. Of these, 54 percent were requests for action; 7 percent were exemption applications; 11 percent were cases initiated by the OFC itself; and 27 percent were other matters, including inquiries of minor importance.

13. In 1997, the OFC resolved a total of 357 competition restraint issues; in 68 cases, by means of a decision, of which 9 concerned exemption applications, and 165 cases were concluded by an administrative letter.

14. The OFC made seven proposals and referred one appeal involving an exemption application to the Competition Council in 1997. The Competition Council issued 9 decisions in 1997. The OFC also lodged one appeal with the Supreme Administrative Court.

#### *b) Description of significant cases*

##### 1. Cases handled by the Competition Council

###### Valio sentenced to competition infringement fine

15. On 24 October 1997, the Competition Council imposed on Finland's major dairy products company Valio a competition infringement fine of FIM 5 million for its abuse of dominant position in the national liquid dairy products markets.

16. Valio applied, between 1 January 1995 and 1 September 1996, a rebate table of liquid dairy products, whereby rebates were granted to the retailers from the wholesale prices of the liquid dairy products. The rebates were calculated on the basis of the average value of all the products the retailers obtained from Valio (liquid dairy products, fats, ice-cream, snacks, juice, cheese) but were only granted from the prices of the liquid dairy products. To receive a full rebate, it was in the retailers' interests to

concentrate all the purchases of dairy products to Valio. Hence, the rebate table had the effect of tying customers of dairy products to Valio, and prevented them from tendering other, competing retailers of single products or product groups.

17. Valio also paid so-called marketing money to its customers to boost the marketing of its products. The customers received the more money, the bigger the purchases from Valio. The amount of money varied according to regional competition, and, thus, customers who were equals measured by their total purchases, could receive different amounts of marketing money.

18. In imposing the fine, the Competition Council paid attention to the severe nature of the competition restraints and the size of Valio's turnover. It was also noted, however, that prior to the introduction of the rebate table, Valio had sought to obtain a statement from the OFC in order to guarantee its acceptability. After Valio received a draft proposal from the OFC, it announced it would end the abuse, albeit after a transitory period. Valio also contributed to the investigation of the case.

#### Finnpap and its member companies sentenced to infringement fine

19. On 6 June 1997, the Competition Council sentenced the Finnpap marketing association and its member companies, the Finnish paper manufacturers Metsä-Serla, Myllykoski, Veitsiluoto (currently Enso) and Yhtyneet Paperitehtaat (currently UPM-Kymmene) to a competition infringement fine of a total of FIM 5.5 million for a forbidden collaboration within the framework of the association. The decision concerns the sales of magazine paper and fine paper sold on rolls.

20. The Finnpap co-operation included the fixing of sales volumes and prices, a joint limiting of production, and market sharing. In addition to exports, the co-operation concerned the domestic paper markets and led to the limiting of competition between paper manufacturers.

21. The member companies ceased the Finnpap co-operation in the domestic markets in the beginning of 1996; and later, with respect to exports. Its activities should have ceased in the Finnish markets on the parties' own initiative by 1 March 1993 when the cartel ban of the 1992 Act on Competition Restrictions entered into force. The alternative would have been to apply for an exemption.

22. While imposing the infringement fine, the Competition Council considered, as mitigating circumstances, the suspension of the forbidden activities; the reasonably short duration of the infringement period and the improved competitive situation, as major players (Enso, Kymmene) had already quit the association.

## 2. Cases handled by the Office of Free Competition

### Energy

#### Exemption for the joint selling of electricity within TSM, Industrial Electricity Sales

23. On 23 December 1997, the OFC granted an exemption for the joint selling of electricity within TSM, Industrial Electricity Sales. The exemption is effective till 31 December 2002.

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24. The TSM partners are UPM-Kymmene, Enso, Pohjolan Voima, Kemira, Etelä-Pohjanmaan Voima, and Metsä-Botnia. The principals of TSM, currently amounting to 10, consist of the above-mentioned partners, with the exception of Pohjolan Voima, plus the following electricity producer companies and power plants: Ahlström Energia, Helsingin Energia, Kokkolan energialaitos, Kyro Power and Vantaan Energia.

25. The main duty of TSM is the sales of electricity to power plants and other customers as a commissioned activity on behalf of the principals. TSM also delivers production and power reserves to electricity generators and offers invoicing services. TSM does not own its own generation capacity of electricity nor a grid needed for electricity transmission.

26. The activities conducted within TSM do not concern co-operation on the technical issues of the trade. TSM is thus not a neutral marketing company, from the point of view of competition, which the products of the principals could penetrate, without the use of the common marketing company affecting the prices collected from customers. The co-operation conducted within TSM means, in practice, the co-ordination, harmonisation and restricting of the means of competition between the principals of the member companies in the pricing of electricity. These activities equal price co-operation, as defined by Article 6 of the Competition Act.

27. The restrictive effects of the joint selling are reduced by the fact that it does not prevent the principals of the company from selling electricity directly past TSM or from using other potential sales channels. The customers of TSM also have the possibility to use other purchasing sources in addition to TSM. It has also been found that the deliveries of electricity bought through TSM are more secure, compared to those bought from individual principals. Cruising benefit is also gained through TSM with the peak hours of consumption coming at different times. TSM's joint selling makes it possible to deliver electricity to customers whose purchase volumes are so large that the principals could not competitively deliver the corresponding amounts on their own.

28. The exemption was granted on the following terms: 1) The partners and principals of TSM shall have the possibility to sell electricity to customers without using TSM's services or agreeing on such deliveries within TSM, nor can the principals or partners agree on the centralisation of electricity sales to TSM, and 2) co-operation within TSM shall not restrict the possibility of partners or principals to independently decide on the import or export of electricity.

### Forestry and forest industry

#### Exemption to company-specific agreements in the raw wood trade

29. On 15 January 1997, the OFC granted an exemption to the company-specific agreements in the raw wood trade introduced by the Central Union of Agricultural Producers and Forest Owners and the Finnish Forest Industries' Federation. The exemption is effective till 30 April 1999.

30. The European Commission had delivered an administrative letter to the Central Union and the Federation, according to which these could carry out the above-mentioned arrangements. The exemption granted by the OFC corresponds to the stand taken by the Commission in the matter.

31. On the basis of the exemption, the forest owners selling raw wood may co-operate in temporary committees, seeking mutual understanding on market conditions and on price expectations with single

forest industry companies. Price expectations refer to non-binding price level descriptions, allowing forest owners planning to sell wood to predict the expected price level.

32. The exemption does not cover a wider price or other type of co-operation, and the sellers are not allowed to e.g. limit the supply of wood between themselves. Any agreements made between forest owners and forest industry companies in the temporary committees on market conditions and price expectations are not to be regarded as trade conditions. Prices, quality issues, measurements, felling conditions, special grades and the effects of felling conditions and location on the prices are negotiated in individual transactions between the buyer and the seller.

33. In the company-specific wood trade model, the buyers of raw wood do not co-operate with each other; i.e. the exemption only holds for the co-operation among the sellers.

34. In granting the exemption, the OFC found that the negotiating parties are committed to creating functional wood markets; to a gradual development of the wood trade and the securing of competitive factory prices of wood. These commitments were decisive in the granting of the exemption.

## Finance

### Exemption to electronic cash card co-operation

35. On 29 May 1997, the OFC granted an exemption to the co-operation within the electronic cash system for Merita Pankki, Osuuspankkien Keskuspankki and Postipankki (hereinafter member banks) who had established a company called Automatia Electronic Cash Cards. The exemption is valid till 30 May 1999.

36. The OFC held that the co-operation between the member banks within the electronic cash system promotes the entry of new means of payment into the markets and the technical development in the field. The co-operation eliminates the duplicate costs of the banks, thus increasing economic efficiency. An extensive electronic cash system and the possibility to use a new method of payment, replacing hard cash, benefits the retailers and the consumers.

37. According to Automatia, all credit institutions part of the Finnish Interbank clearing system have a possibility to join in the electronic cash system as the issuers of the reloadable Avant smart cards. E.g. an entry and an annual fee will be collected from credit institutions joining in the electronic cash card system; these fees will be jointly determined by the member banks. The OFC found that this price co-operation violated the prohibition of Article 6 of the Competition Act.

38. The customers are able to reload their electronic purse cards at the ATMs directly from their personal bank accounts. According to the exemption application, Automatia will collect a reload charge from electronic cash card customers jointly set by the member banks. The OFC held, however, that no exemption is granted to the price co-operation on the member banks' reloading and unloading services.

39. The OFC found that price co-operation on retailer commissions is justified at the early stages of the system because it decreases the negotiating costs related to the marketing of the new cash card and because it is to be expected that the resulting efficiency benefits will primarily accrue to the consumers.

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40. The member banks had agreed that they shall not offer or use electronic cash card services which compete with Automatia. The OFC required that the member banks dissolve the non-competition clause so that it will not prevent the member banks from joining cash card transactions to other memory, function and smart card solutions, and that member banks continue to have the incentive to develop for their customers their own reloading services of cash cards.

41. The exemption granted to Merita Pankki, Osuuspankkien Keskuspankki and Postipankki does not concern other credit institutions joining in the electronic cash system. The OFC required that the other credit institutions joining in the system have the opportunity to independently determine all the charges to be collected.

### No-discrimination rule of credit card companies

42. The Finnish Travel Agents' Association requested that the OFC investigate whether the so-called no-discrimination rule applied by credit card companies violates the Competition Act. The request for action concerned a condition between a credit card company and a customer wherein the travel agents were denied the collecting of a specific surcharge from credit card customers. The surcharge refers to a payment collected from customers for paying their purchases by card, and comes on top of the sales price for a product or service supplied. In the request for action, the possibility to collect the surcharge is justified by the costs of the credit card transactions to the travel agents.

43. The OFC found that the terms included in the agreements between the credit card companies and the travel agents, according to which the agents would not have the right to collect the charge, restricted free price formation and the freedom of trade of the entrepreneurs.

44. In August 1997, the OFC made a proposal to the Competition Council that it ban such conditions of credit card companies which prevent travel agents from independently deciding whether to collect a surcharge from a credit card payment. The OFC also proposed that an infringement fine be imposed.

45. The stand has the nature of a precedent, since had the OFC approved the conditions, similar restrictive terms would apparently have been introduced into other credit card agreements, which would have, in turn, stifled competition within credit transfer and other electronic banking services.

46. The proceedings of the case are pending at the Competition Council.

### Communications

#### Exemption to national price co-operation: Finnet

47. On 12 June 1997, the OFC granted a five-year exemption to the national price co-operation on international telecommunications products in the Finnet group.

48. The Finnet group consists of 46 local telephone companies. The head group Finnet International is responsible for the development of the production equipment; it directs operations and offers to the international telecommunications markets a number 999 foreign call service, international fixed cables and a transit service. The share of the Finnet group of the total turnover of the information technology sector is 46 percent. Its share of the international telecommunications markets is ca. 21 percent share of

foreign telephone traffic ca. 23 percent, international fixed cables 10 - 15 percent and transit services less than 1 percent Finnet's main competitor is Telecom Finland (currently Sonera).

49. The local telephone companies part of the Finnet co-operation operate in the same product markets as local telephone service providers and are thus mutually competing entrepreneurs. The reform of the Telecommunications Act (currently the Telecommunications Market Act), effective from June 1997, made it possible to grant operating permits to several telephone companies in the same region. The companies are also able to offer their services outside their traditional operating areas by renting network capacity from other companies, making the Finnet companies potential competitors on the same geographical markets.

50. In its decision, the OFC found that the co-operation of the telephone companies on international telecommunications products is likely to boost the operations of the companies involved and to promote economic efficiency. The centralisation of the operations produces savings, improves cost-efficiency, and the exchange costs related to the trade between companies are smaller than they would be if the co-operation did not exist.

51. The exemption only holds for the price co-operation conducted within the framework of Finnet international telecommunications products on the condition that the collaboration does not restrict the other operations of the local telephone companies. Participation shall be voluntary, and the local companies shall also be free to advertise the product independently. In addition, all local companies shall have the possibility to develop and offer similar products to their customers and, hence, be able to compete with the service provided by Finnet.

## Health care

### Single channel distribution of medicines

52. In autumn 1992, the OFC began to investigate whether the so-called single channel distribution of medicines used in Finland contains forbidden or harmful limiting of competition. Single channel distribution of drugs refers to the system where the products of each pharmaceutical company are exclusively distributed by one company active in the wholesaling markets.

53. In practice, the two wholesaling companies active in the Finnish markets—Tamro and Oriola—are thus obligatory trading partners from the customers' viewpoint. In such a situation, it is important to secure the possibility for the customers to use alternative channels replacing wholesales in the purchase of drugs. The OFC duly noted that the single channel distribution could be used to prevent parallel imports. To secure effective competition in the pharmaceuticals market, if new medicinal products do not reach the markets due to single channel arrangements, their effects for competition will have to be re-evaluated.

54. The single channel system was not found to impede competition between drugs manufacturers, however, or prevent the entry of new manufacturers into the field. The two wholesales distributing drugs also compete with each other for the manufacturers' distribution agreements. Additionally, the transfer to the single channel system had improved the efficiency of drug distribution. Since the effects of single channel distribution for the restricting of competition do not, so far, appear to be bigger than the increase in efficiency, the OFC closed the case.

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### Other sectors

Abuse of dominant position: Ajasto

55. On 28 October 1997, the OFC proposed to the Competition Council that it find the calendar publisher Ajasto guilty of an abuse of a dominant position and impose an infringement fine of FIM 3 million.

56. The OFC found that Ajasto's discount and pricing practice contains unlawful elements. Ajasto holds a dominant position in the manufacture, sales and marketing of Finnish and Swedish calendars in Finland. Particularly the small retailers of calendars have suffered from Ajasto's conduct because they largely depend on its product range.

57. It transpired during the investigations that Ajasto e.g. ties the basic discounts it grants to its customers (bookstore chains, central companies and paper wholesales) to their previous year's purchases and advance orders. A minimum of 70 percent of the previous year's purchases has to be ordered in advance in order for Ajasto to grant a basic discount. In addition, Ajasto grants an annual rebate also tied to the previous year's purchases, which is higher if the customer exceeds the 70 percent advance purchase level.

58. The OFC held that the basic discount and the related annual rebate are aimed at blocking potential competition and excluding competitors from the distribution channel. The OFC also found that Ajasto has used arbitrary pricing principles when it has granted large rebates or other discounts to the customers committed to buying Ajasto's products only.

59. The proceedings of the case are currently pending at the Competition Council.

Discounts: Otava

60. The bookstore Lukiolaisten Kirjakauppa, specialising in the sales of school books and other equipment to the upper secondary school, requested that the OFC investigate whether a major Finnish publishing house Otava was abusing its dominant position in granting Lukiolaisten Kirjakauppa a discount which was 5 percent smaller than that granted to other bookstores.

61. The market definition made by the OFC was based on the fact that bookstores had to obtain precisely Otava's books for pupils to whose curriculum they belong; they could not be replaced by the books of some other publishing house. Hence, the relevant markets were considered to be composed of school books chosen by teachers for secondary school teaching from among all the books published by Otava. The fact that Otava is able to sell school books to Lukiolaisten Kirjakauppa at a higher price than to other bookstores without a threat of their changing publishers emphasises Otava's independent position.

62. The OFC proposed that the Competition Council find Otava guilty of an abuse of dominant position and order Otava to terminate its discriminatory discount pricing and move to a cost-based discount practice in the sales of upper secondary school books. The OFC also proposed that the Competition Council impose an infringement fine.

63. The case is currently pending at the Competition Council.

#### Refusal to print an advertisement: provincial newspaper Ilkka

64. Following a request for action, the OFC investigated the provincial newspaper Ilkka's refusal to print the advertisement of a free advertising paper Pohjanmaan Pörssi. Pohjanmaan Pörssi intended to publish a coupon in Ilkka whereby advertisements could have been delivered to the paper.

65. In its decision, the OFC held that a one-sided refusal to print an advertisement should generally be examined from the perspective of the Competition Act in such cases only where the company refusing to print holds a dominant position. Since the OFC found that the provincial papers Ilkka and Pohjalainen part of the Ilkka group hold regional dominance in the markets of classified and private citizens' advertisements in their own publication areas, the refusal to print the advertisement was examined on the basis of Article 7, the prohibition on the abuse of a dominant position. The OFC found that Ilkka did not have a justified cause for the advertising ban. The justification put forth by Ilkka according to which the printing of a competing advertiser's advertisement could be presumed to weaken the competitive position of the provincial papers owned by the company was not considered such a cause.

66. However, when assessing the need to impose a competition infringement fine, the OFC considered that this was the first time that the Competition Act was applied to a newspaper's refusal to print an advertisement. The view is generally held by the press that the editor should, based on the Act of Freedom of the Press (No. 1/1919), always have the right to decide about the printing of commercial advertisements. In addition, the abuse of dominant position caused by Ilkka's refusal to print could be described as minor when the relatively small harmful effects for competition in the advertisement markets were considered. Hence, the OFC did not make a proposal to the Competition Council on the imposing of an infringement fine.

#### *Abuse of dominant position in the flour markets: Melia*

67. In its request for action, the mill company Helsingin Mylly suspected that its competitor Melia was abusing its dominance in the flour markets by tying mill customers with annual agreements in a manner preventing the smaller flour suppliers' entry into the markets.

68. Melia's pricing had been under investigation by the OFC in 1992 already when it had carried out an inspection in Melia but had not found evidence for the abuse of dominant position.

69. Following further investigations, the OFC found that between 1993-1996 Melia had applied to its major bakery customers discounts based on the total purchase volume. The final prices of products whose demand was independent of one another could not be separated, and the discount system was not predictable nor transparent. The OFC held that Melia was tying and discriminating against its customers and blocking competition. The tying effects were increased by the fact that, in most cases, receiving the discount required that the customers purchase the majority of their goods from Melia.

70. During the investigation of the case, Melia announced that, during 1997, it would abandon the annual discounts and the marketing money paid to customers on the basis of their total purchase volume, and that it would introduce discounts for specific product groups and seek net pricing in its agreement negotiations. Reacting to the OFC's subsequent statement, Melia announced that it would also give up product group specific target, volume and annual discounts and move to product-specific net prices. Melia would also establish a new bakery-specific cover accounting to ensure a fair and cost-effective pricing.

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Due to these changes, the OFC saw no cause to make a proposal to the Competition Council for the imposition of a fine.

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

71. In 1997, the OFC made six initiatives and issued 64 written statements to other authorities in regulatory matters.

72. Within the field of insurance, the OFC made, in early 1997, a proposal to the Ministry of Social Affairs and Health on revising the terms related to the re-borrowing of the employment pension in a way which would make it easier for policyholders to change insurance companies and, at the same time, to tender them. Currently, when clients are changing employment pension companies, they cannot transfer the reserves accrued nor their right to re-borrowing to the new company. The parts of the pension funds which have not been re-borrowed when clients change companies remain with the old company.

73. In the issue of insurance, the OFC was heard by the Social and Health committee of the Parliament where it reviewed the problems of the employment pension insurance markets. The related legislation was revised in 1997; employment pension companies may now invest their funds more freely than before and their operations are differentiated from the insurance companies part of the same group.

74. The OFC also gave five statements to the Ministry of Transport and Communications on the Telecommunications Market Act, and on the statutes issued under it. The Act, effective from the beginning of June 1997, cut down on the operations requiring an operating licence; promoted the possibility to rent the local network and tightened the special legislation of companies having a considerable market power. The OFC found the revisions beneficial for competition.

75. In the field of communications, the OFC made, in August 1997, an initiative to the Ministry of Transport and Communications on the need to re-evaluate the basis of the state subsidy granted to the press, which it has found to distort competition with respect to circulation and the sales of advertising space. The OFC proposed that the subsidy be ceased of papers which cannot be considered national party papers or those necessary for language minorities. The subsidies are nowadays enjoyed even by the market leaders of their respective regions. The OFC finds that the subsidies must preferably be temporary and such that they spur effective operations. The initiative has elicited some response, most notably from the press subsidy board of the Ministry of Transport and Communications, who has decided to cut down on the amount of the subsidy and to cancel it from so-called general papers.

76. Within health care, the OFC gave a statement to a working group of the Ministry of Social Affairs and Health; the group's work aimed at lowering the prices of medicines. The OFC supports the total cancellation of the pharmacy fee collected from pharmacies on the basis of their turnover and does not approve the retention of the drug tariff confirmed by the State Council because it binds the pricing of the drugs. The OFC reminded the Ministry of its previous statement where it recommended the conversion of the tariff into a pricing recommendation and its later removal, and the introduction of competition into the distribution of medicines.

77. In the transport sector, the OFC gave a statement about the draft proposal for the revised Act on Licensed Passenger Transport on Road, according to which the Ministry of Transport and Communications would confirm a maximum level for the so-called regional traffic tariff. This would lead

to rigid pricing and not motivate for the carriers to improve efficiency nor to seek cost-savings. According to the OFC, local traffic agreements should be carried out in such a way that the transport companies party to them would be in a mutually competitive situation.

#### IV. Resources of competition authorities: Office of Free Competition

##### 1. Resources overall

a) Annual budget: FIM 17.2 million/USD 3.1 million for 1998 (FIM 17 million/USD 3.0 million for 1997)

b) Number of employees (person-years):

	Enforcement against anticompetitive practices	Support activities, including international affairs, information services, administration and secretarial services
Economists	13	5
lawyers	13	2
Other professionals	7	4
Support staff	-	11
All staff combined	33	22 = $\Sigma$ 55

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

a) Enforcement against anti-competitive practices: ca. 96 percent

b) Merger review and enforcement: -

c) Advocacy efforts: ca. 4 percent

3. Period covered by the information: Year 1997; for 1b) situation in April 1998.

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

In 1997, the OFC published the following reports:

1/97 Riitta Sangi, *Tarvitaanko Suomessa fuusiovalvontaa?* (Is merger control necessary in Finland?)

2/97 Annika Altonen, *Yrityksen oikeudet kilpailuoikeudellisen asian käsittelyssä EY:n komissiossa* (Rights of companies during the proceedings of competition law cases at the EU Commission)

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3/97 Tanja Rekola, *Locus Standi of Third Parties in Competition, Merger, Anti-Dumping and State Aid Issues* (in English)

4/97 Esa Viitamo, *Teräksen jakelujärjestelmän rakenne ja kilpailuolosuhteet 1990-luvulla* (The structure and competitive conditions of the steel distribution system in the 1990s)