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ANNUAL REPORT ON COMPETITION POLICY DEVELOPMENTS IN NORWAY

-- 2010 --

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Executive summary

1. The Norwegian Competition Authority's main priority in recent years has been to uncover cartels. The efforts have been rewarded, and during 2010 the Authority launched investigation into several new cases. Evidence was secured in 4 cases at 19 sites. Most of these concerned possible violations of the prohibition against anti-competitive cooperation. Several cases are pending investigation.

2. The Authority has also continued its efforts to promote awareness of the leniency program. The Authority received six applications for leniency in 2010, which is the largest number of leniency applications received since the scheme was introduced.

3. Uncovering illegal cartels and bid-rigging will remain a key priority for the Competition Authority.

4. Moreover, the first instance courts upheld the Authority's decisions in three instances this year. The ruling of the first instance courts had been appealed in two of the cases. In relation to the Tine case (abuse of dominant position) the Supreme Court decided in June 2011 in favour of Tine and held that Tine had not abused its dominant position in the dairy market.

5. Throughout the year, the Competition Authority also worked to increase awareness among various stakeholders, both in order to prevent and to detect competition crimes. Our webpage www.kt.no is an important channel for information directed towards the public, business and media, to further knowledge of competition law and the competition authority's enforcement powers. The webpage had nearly 520,000 unique visitors in 2010. This is twice as many as in 2009.

6. Several markets have been under special surveillance with a view to uncover violations of the prohibition provisions. Market monitoring of the wholesale market for electricity, in cooperation with the Norwegian Water Resources and Energy Directorate (NVE) is an ongoing activity. The purpose of the surveillance is to identify potential abuses of market power. However it has not been initiated any extended investigation of possible violation of the prohibition provisions in 2010.

7. The review of agreements between grocery chains and their suppliers as well as the monitoring scheme relating to Tine's gross margins in the dairy sector continued as well. The review and monitoring in 2010 revealed no specific conditions that would have provided a basis for further investigation by the agency.

8. The financial crisis in 2009 cooled down also the Norwegian economy and resulted in the notification of relatively fewer mergers and acquisitions than usual. The Authority requested complete notification in eight cases in 2009, but none of them resulted in an intervention in 2010. By the turn of the year 2010/11, none of the cases subject to complete notification in 2010 led to intervention by the agency. The number of reported mergers and acquisitions notified to the Authority increased in the second half of 2010.

9. An important task for the Competition Authority is to evaluate the effects of its measures and decisions resulting from enforcing the competition law. One of the measures chosen in this regard was the new regulations providing access to online property advertising by individuals and companies without real estate license which came into force from January 2010. The evaluation shows that 2000 people advertised their houses for sale on Finn.no in 2010. The Authority also evaluated competition in the fuel market, and its investigation shows that local competition has a considerable impact on fuel prices. As a final case, the Authority assessed what effects its letter calling attention to restrictive effects on competition of public measures had on the waste management market and the implementation of tenders in the waste sector in

the municipality of Trondheim. The evaluation shows that the City of Trondheim followed the recommendations expressed in the letter and made changes in the organization of its waste management units satisfying the NCAs concerns.

10. The Competition Authority, on behalf of the Ministry for Government Administration, Reform, and Church Affairs, also analyzed the competitive conditions in the market for public service pensions. The analysis shows that competition in the market for public service pensions is limited, and that there is a potential for stronger competition in this market.

11. Consumers must have sufficient information for the demand side of the market to work efficiently. The Norwegian Competition Authority shall, according to the law, supervise competition in the various markets, ia. by implementing measures to promote market transparency. Our electricity price comparison website is a useful tool that provides consumers with a good basis for comparing electricity prices from various power suppliers. The Authority's database lowers the costs of finding a cheaper supplier. Lower search costs combined with lower switching costs are factors that the NCA believes encourage greater competition in the electricity market. The Competition Authority monitors the updates of the electricity price survey, and in 2010 it performed extensive upgrades on its website in response to customers' demands for more detailed price comparisons.

12. As a final note to the executive summary it can be mentioned that Christine B. Meyer took over as the head of the Norwegian Competition Authority on 1 April 2011. The position is for a term of six-years.

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

1.1 Summary of new legal provisions of competition law and related legislation

1.1.1 Regulation on the application of the Competition Act section 10 third paragraph on groups of agreements, decisions and concerted practices in the insurance sector

13. In connection with the revision of EU rules relating to agreements, decisions and concerted practices in the insurance sector, new regulations were adopted on 31 May 2010 on the application of the Competition Act section 10 third paragraph to categories of agreements, decisions and concerted practices in the insurance sector. The regulation requires certain types of cooperation in the insurance sector to be, under specific conditions, exempted from the prohibition against restrictive agreements in the Competition Act section 10 first paragraph. The regulation came into force on 31 May 2010 and shall remain valid until 31 March 2017.

1.1.2 Regulations on the application of the Competition Act section 10 third paragraph on categories of vertical agreements and concerted practices

14. In connection with the revision of EU rules on vertical agreements, a new regulation was adopted on 21 June 2010 on the application of the Competition Act section 10 third paragraph to categories of vertical agreements and concerted practices. The regulation exempts certain types of vertical agreements under certain conditions from the prohibition against restrictive agreements in the Competition Act section 10 first paragraph. The regulation came into force on 31 May 2010 and shall remain valid until 31 May 2022.

1.1.3 Regulation on the application of the Competition Act section 10 third paragraph on categories of vertical agreements and concerted practices in the motor vehicle sector

15. In connection with the revision of EU rules on vertical agreements and concerted practices in the motor vehicle sector, new regulations on the application of the Competition Act section 10 third paragraph

to categories of vertical agreements and concerted practices in the motor vehicle sector were adopted on 24 August 2010. The regulation exempts certain types of cooperation agreements in the motor vehicle sector under certain conditions from the prohibition against competition-restricting cooperation in the Competition Act section 10 first paragraph. The regulation came into force on 1 June 2010 and shall remain valid until 31 May 2023.

1.1.4 Regulation on temporary exemption from the Competition Act for agreements on emergency veterinary clinics

16. The regulation was adopted on 17 December 2010, and aims to restrict the use of the prohibitions in the Competition Act in order to allow the conclusion of framework agreements and agreements on the organization and remuneration for participating in emergency veterinary clinics. To achieve this objective, the regulation exempts from the Competition Act sections 10 and 11 agreements and unilateral actions taken by veterinarians or their organizations, if the conduct is necessary to negotiate and implement agreements between them and local authorities to fulfill the obligation of municipalities to arrange for emergency veterinary clinics. The regulation came into force on 1 January 2011 and shall remain valid until 30 June 2012.

1.1.5 The regulation on tariff calculation and on maximum prices for regulated taxi transport by motor vehicles

17. The regulation on tariff calculation and on maximum prices for regulated taxi transport by motor vehicles was adopted on 30 September 2010. The regulation introduces a new tariff system for taxis subject to compulsory license, a parallel fare system, and determines the maximum tariffs for those taxis which are subject to maximum tariff regulation. The regulation enters into force on 1st of September 2011.

1.2 Other relevant measures, including new guidelines

1.2.1 Discount programmes aimed at businesses.

18. In the spring of 2010, the Norwegian Competition Authority reviewed SAS' and Norwegian Air Shuttle's frequent flyer programmes aimed at businesses to assess whether they violate the regulation that prohibits earning frequent flyer points on domestic routes in Norway.

19. The prohibition of giving frequent flyer points to airline passengers on Norwegian domestic routes dates from 2002, when the Norwegian Competition Authority intervened against the frequent flyer programme of SAS, Braathens and Wideroe. This laid the groundwork for the entry of Norwegian Air Shuttle into Norwegian domestic routes. In 2007 the Ministry of Government Administration and Reform introduced, through the frequent flyer regulation ("bonusforskriften"), a general prohibition against such frequent flyer programmes for all airlines.

20. Most frequent flyer programs give benefits directly to the actual airline passengers. In 2009, SAS and Norwegian introduced a new type of frequent flyer programme giving benefits directly to the businesses paying for the airline tickets. Since frequent flyer programmes may have a lock-in effect in that customers incur a cost if they choose a competing airline, and such lock-in may reduce competition between established companies and raise entry barriers for new players, the Competition Authority initiated further investigation of the new schemes. In this connection, the Authority collected information from both SAS and Norwegian. The Authority's conclusion was that these programmes, as they were designed, did not restrict competition in Norwegian aviation. The Authority will, however, continue to monitor developments in the corporate frequent flyer programmes in order to ensure that the frequent flyer regulation is complied with.

1.2.2 Grocery market

21. The Competition Authority extended the compulsory notification of annual agreements with market-leading suppliers imposed on the grocery chains.

1.2.3 Newsletter

22. In November 2010 Konkurransenytt (Competition News) returned as an electronic publication after the paper edition was wound up in 2008. Konkurransenytt is sent out by email and posted on konkurransetilsynet.no. As before, the magazine contains brief news items, consumer material, commentary on matters of current interest and information on important issues that the Authority is currently working on.

1.3 Government proposals for new legislation

23. Committee appointed to review and evaluate the Competition Act. On 17 December 2010, the Ministry of Government Administration, Reform and Church Affairs appointed a committee of experts to review and evaluate the Competition Act of 2004 and propose possible changes to the law. The Norwegian Competition Authority and the Ministry will act as secretariat for the committee. The committee shall deliver its report to the ministry by 1 February 2012.

2. Enforcement of competition laws and policies

24. Norway's current Competition Act came into force on 1 May 2004. The primary responsibilities of the NCA are as follows:

- Monitor adherence by businesses and industry to the Competition Act's prohibitions against competition-restricting cooperation and abuse of a dominant market position.
- Ensure that mergers, acquisitions and other forms of concentration do not significantly restrict competition.
- Implement measures to increase the transparency of markets.
- Enforce Articles 53 and 54 of the EEA Agreement.
- call attention to any restrictive effects on competition of public measures and, where appropriate, submit proposals aimed at furthering competition and facilitating market access by new competitors.

25. The NCA can impose administrative fines on businesses for breaches of provisions of the Competition Act.

2.1 Action against anticompetitive practices, including agreements and abuses of dominant positions

26. For several years the Competition Authority has placed top priority on the detection of cartels, and it has spent much time developing expertise and providing trade and industry with information about the law, prohibition regulations and its leniency programme. This initiative will be continued, particularly in conjunction with the work being carried out on combating illegal collusive tendering.

27. In 2009 the Competition Authority spent much time actively trying to identify possible cases that could infringe the Competition Act whereas in 2010 the Authority concentrated its effort on investigating the cases identified the year before. The publicity campaigns of 2009 were successful and the Authority has been contacted on several occasions in relation to possible illegal cooperation between competitors in 2010. The year was characterized by an increase in the number of cases received, both for investigation and for final decision, and a breakthrough for the leniency program.

28. The Competition Authority has benefited from the initiatives to improve investigator competence implemented in the last two years. In 2010 competence development was provided in the form of participation in external inspection courses and internal training for new employees.

29. In 2010 the Competition Authority secured evidence in four cases at 19 different locations involving a total of 11 companies. A total of 32 formal statements were taken in connection with investigations into six different cases.

Investigative work

Activities	2006	2007	2008	2009	2010
Securing evidence section 25 – cases/locations	2/4	2/6	3/5	2/7	4/19
Depositions (formal statements) section 24 – cases/locations	2/7	3/12	4/12	2/9	6/32

30. These ongoing cases draw heavily on the authority's resources.

31. It also appears that the work that has gone into publicizing the leniency scheme is starting to pay off. Leniency was already introduced by the Competition Act of 3 May 2004, but only two applications for leniency had been received until 2009. By the end of 2010, this figure had risen to 11, with six of the leniency applications being received in 2010. Several of the cases currently under active investigation are the result of leniency applications.

Applications for leniency	2007	2008	2009	2010
Number of applications	2	0	3	6

2.1.1 *An overview of some significant cases*

32. Presented below is a brief summary of some significant decisions in the sphere of anticompetitive behaviour in 2010.

- Internet portals open for private residences from 1 January

From 1 of January 2010 it became possible for private individuals and companies without real estate license to advertise property for sale on the Internet. Previously, web portals such as Finn.no refused these groups access to advertise property for sale. At the proposal of the Competition Authority, a new regulation was adopted requiring web portals to provide access to advertising services to anyone on non-discriminatory terms. The new rules ensure greater choice for home sellers and facilitate increased competition in the real estate market.

A study undertaken by the Competition Authority early 2011 shows that the web portals have had very few negative experiences with the use of the advertising service by the new customer groups. The study also shows that in 2010 more than 2000 individuals displayed homes for sale on web portals. Most classified ads were published on Finn.no, and the ads amounted to about 2 percent of the total number of homes advertised in 2010.

The studies carried out by the Competition Authority showed that a classified ad is read by at least as many potential home buyers as a broker ad. This indicates that individuals can now, in practice, advertise property on the Internet.

The new access rules enable house owners to choose to sell their property at a lower cost than using traditional real estate services. Although most home sellers still prefer the traditional brokerage services, the Competition Authority considers that the increased options for home sellers contribute to increased competition in the real estate market. Property owners who choose to sell their house through a broker, should therefore also be able to get lower prices and better quality of brokerage services as a result of the regulation.

During the course of the year 2010, the Competition Authority has also been aware of companies without a real estate license that wish to advertise property on online portals. As a result of the regulation, new companies have arisen that can offer services related to buying and selling property. Such firms offer a packaged service which is more limited than the traditional brokerage service, and thereby gives vendors more choices. The Competition Authority has and will continue to work for the web portals providing such enterprises access to property advertising that is not discriminatory as compared with the access provided to real estate brokers. Such access is important to allow such enterprises to be a real option for home sellers. This would allow these enterprises to exert even greater competitive pressure on real estate brokers.

The positive effects of the regulation will be fully realized, provided the web portals do not discriminate among different customer groups. The regulation requires web portals to offer individuals and businesses without real estate licenses a price per ad that is not discriminatory as compared with the price paid by brokers. Large price differences between brokers and other customer groups will limit the options for house sales and lead to fewer classified ads. Web portals must therefore have an objective justification for price differences between different customer groups. To ensure that all customer groups are given genuine access to housing advertising on non-discriminatory terms, the Competition Authority will continue to monitor the current prices on the web portals.

- Breaches of the prohibition regulations

During the course of 2010 the Authority made no decisions related to the prohibition regulations.

In 2009 the Authority issued cease-and-desist orders and fines in three cases involving illegal anti-competitive cooperation. Two of these were tried in court during 2010, in addition to the Tine section 11 case (abuse of dominance).

- Legal action against Norges Turbileierforbund

The Competition Authority fined Norges Turbileierforbund (National Coach Owners' Association) NOK 400,000 for encouraging its members to raise their prices. Several articles in the association's newsletter discussed raising prices, including offering suggestions regarding the size of the increase. In addition a price calculator showing how this could be done was made available to members. The association was also ordered to cease its illegal activity. After a main hearing lasting a week the fine was upheld by Oslo District Court. The association has appealed the decision.

- Legal action against contractors in Steinkjer

The Competition Authority fined contractors Gran og Ekran A/S and Grunnarbeid A/S NOK 2 and 5 million respectively for having cooperated illegally on submitting separate tenders for the maintenance of five bridges in Steinkjer. The authority believes that the two companies did not actually compete and the two bids were made with a view to increasing the price and giving the

impression of competition. After a main hearing lasting a week the fines were upheld by Sør-Trøndelag District Court. Both companies have appealed against the ruling.

- Legal action against Tine

In February 2007 the Competition Authority decided to impose on Tine an administrative fine of NOK 45 million for abuse of a dominant position and cooperation that restricts competition. Tine did not accept the fine and filed a lawsuit against the state, represented by the Competition Authority, to have the decision reviewed by the court.

In 2009 the Competition Authority's decision to fine Tine Meierier for abusing its position on the white cheese market was overturned by Oslo District Court. In 2010 the Authority's appeal against the acquittal was heard by the Borgarting Court of Appeal. The appeal proceedings were as long as the proceedings in the District Court. Tine Meierier was ordered to pay a fine of NOK 30 million.

Tine appealed against the Appeal Court's ruling to the Supreme Court. In June 2011 the Norwegian Supreme Court concluded that Tine did not abuse its dominant position in its annual negotiations with Rema 1000 in autumn 2004.

This is the first time the Supreme Court considered a case of abuse of dominant position (section 11 of the Competition Act).¹ The judicial review by the Supreme Court and earlier courts of the case has provided some important clarifications relating to the application of the prohibition of section 11 of the Competition Act relating to the abuse of a dominant position. The Court of Appeal ruled that Tine had a dominant position, and therefore section 11 was applicable. This point was not considered by the Supreme Court, and thus stands. The Supreme Court has clarified that the list of forms of abuses in section 11 is not exhaustive and that the same applies to the types of cases of abuse that have been developed by the European Court of Justice.

As a final note in this section, it can also be mentioned that monitoring of gross margins in the dairy sector was continued in 2010. The purpose of this activity is to check whether Tine's gross margins are low enough to constitute a margin squeeze that would be damaging to competition and in breach of Section 11 of the Competition Act.

2.2 *Mergers and acquisitions*

33. The financial crisis of 2009 and the low economic activity meant that few mergers and acquisitions were notified to the Authority. None of the eight cases where a complete notification was requested in 2009 resulted in an intervention in 2010.

34. At the turn of the year 2010/11, none of the cases subject to complete notification in 2010 led to intervention by the agency. The number of reported mergers and acquisitions picked up again in the second half of 2010.

35. The Competition Authority received notification of 415 concentrations in 2009. By comparison, it received 294 notifications in 2010. Full notification was requested in nine cases (eight in 2009).

36. The NCA did not intervene in any concentrations in 2010.

¹ The provision entered as part of the new Competition Act in 2004.

2.2.1 Summary of significant cases

37. The table below presents an overview of the Authority's activities in the area of merger control in the period 2007-2010.

Cases received	2007	2008	2009	2010
Notifications of mergers and acquisitions	561	444	294	415

2.2.2 The Norwegian Complaints Board for Public Procurement (KOFA)

38. The Norwegian Complaints Board for Public Procurement (KOFA) is a national complaints body that decides whether public awarding bodies have violated the public procurement rules, ie. safeguards competition in public procurement. The Board has 10 members, who are appointed by the Government. In addition to its role of offering advisory opinions, KOFA was also given the authority to impose fines for illegal direct award of contracts with effect from 1 January 2007.

39. For administrative purposes the Board's Secretariat comes under the Competition Authority. Although KOFA and the Competition Authority enforce two different sets of rules, their purpose is the same: the efficient utilization of society's resources. Both sets of rules are important in preventing financial crime, such as corruption. Many of the corruption cases uncovered in recent years involve the illegal appropriation of public funds and failure to put contracts out to tender.

40. There has been a substantial increase in the number of cases dealt with by KOFA over the last few years. In 2010 there have been received 396 complaints. This represents an increase of 38 percent compared to 2009. In the same period the Complaints Board dealt with a total of 276 cases, including 55 cases which were potentially involving fines, ie illegal direct procurement. In 2010 the Complaints Board received 104 complaints about illegal direct procurement, more than twice as many than in 2009.

41. Case statistics for the period 2003-2010 is presented below.

Case statistics KOFA 2003–2010

	2003	2004	2005	2006	2007	2008	2009	2010
Complaints	268	287	287	158	155	224	285	396
Decided	182	248	260	176	217	171	226	276
Rejected	76	104	134	50	48	43	50	81
Violations	51	80	71	79	118	61	107	123
Non-violations	24	10	27	29	36	38	36	29

42. Illegal direct procurement is procurement that is not advertised according to the public procurement regulations. This is regarded as being the most serious breach of the regulations because such procurement completely evades the requirement for competition, which is the main purpose of the regulations.

43. KOFA issued 14 fines for illegal direct award in 2010. This is twice as many as in 2009. Thus, the Board has issued a total of 25 fines since it was given the authority to impose fines 1st of January 2007. One of the major cases is presented below.

44. The right to impose fines in cases of illegal direct procurement has resulted in a large increase in the Secretariat's caseload, so that the number of permanent lawyers increased to 12 in 2010, including the head of the Secretariat, and a full-time secretary.

45. For the financial year 2010, KOFA's budget was approximately 10 million NOK (1.3 million euro). In the same period, total revenue from imposed penalties amounted to approximately 50 million NOK (approximately 6.5 million euro).

46. **Advocacy.** There is a great need for information on how the public procurement rules should be understood and used, and KOFA is experiencing great demand for guidance. KOFA and the Competition Authority are therefore working together to increase awareness of both the procurement rules and the provision of the Competition Act on illegal collusive tendering among public awarding bodies.

47. **Record-high fine to the City of Oslo for illegal direct award.** The City of Oslo was fined NOK 42 million (approx. €5.2 million), corresponding to 13.9 percent of the value of the services procured, because the municipality had, for many years, failed to put out for competitive tender the contract for the subsidized transport of handicapped and elderly persons.

48. This is the largest fine KOFA has ever imposed. The size of the fine was calculated on the basis of how much the City of Oslo had paid for the taxi services between 24 June 2007 and the date the fine was imposed - a total of NOK 302 million. Account was also taken of the fact that the City of Oslo had been aware, for several years, of its duty to advertise according to the public procurement regulations, and the fact that the contract was assigned to Oslo Taxi AS without competition.

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

3.1 Cooperating bodies

49. The NCA holds regular meetings for information and contact purposes with cooperating bodies such as the Financial Supervisory Authority of Norway, the Norwegian Post and Telecommunications Authority, the Norwegian Water and Resources and Energy Directorate, the Agency for Public Management and eGovernment.

50. The Competition Authority has cooperation agreements with the Consumer Ombudsman and the Norwegian Consumer Council. In addition to engaging in regular cooperation on specific cases, the three organizations hold regular cooperation meetings twice a year. A regular meeting has also been established for discussing the groceries markets among the Consumer Council, the Consumer Ombudsman, the National Institute for Consumer Research and the Competition Authority.

3.2 Expressing competition concerns related to existing or proposed regulations

51. According to section 9 of the Competition Act, the Competition Authority shall supervise competition in the various markets, among other things by implementing measures to promote market transparency and by calling attention to any restrictive effects on competition of public measures (section 9e).

52. Where appropriate, the Competition Authority can submit proposals aimed at furthering competition and facilitating access to the market by new competitors. The Competition Authority has the right to request a response from the public body responsible for the measure to be submitted within a deadline specified by the Competition Authority. The response must include inter alia a discussion of how the competition concerns will be addressed. Attention was not called to any anti-competitive effects of public measures under section 9e in the Competition Act in 2010.

53. Moreover, the Norwegian Competition Authority is often consulted as a hearing body by other public authorities. The NCA also submits, on its own accord, its opinion on competition related issues to other public authorities. By acting as a hearing body, the Authority ensures that the competition perspective is given due consideration when new policies are being adopted. The Norwegian Competition Authority made 18 hearing submissions of significance in 2010.

3.3 *Increased transparency and awareness of consumers*

54. The Authority is also instrumental in the adoption of measures to increase competitiveness in markets. Notable among these were measures initiated to stimulate the demand side of markets. This was done mainly through the adoption of measures which increased the awareness of consumers.

3.3.1 Electricity price comparison service.

55. The electricity price comparison service on the Competition Authority's website dates back to 1998. The electricity price comparison service makes it easier for consumers to compare electricity prices and check out the market to see if it is worth changing electricity supply contract or electricity supplier. The Competition Authority launched an improved electricity price comparison service in 2010.

56. Around 707,000 visits were made to the electricity price comparison service in 2010. This represents an increase of 130 percent in 2009. The number of visits thus increased sharply and in some months was roughly three times higher than in the same month of the previous year.

3.3.2 Dual price calculation system for taxi transport.

57. The Competition Authority passed new regulations for fare calculation and maximum prices for taxi transport in 2010. The regulations came into force on 1 September 2011.

3.3.3 Cooperation with the Consumer Ombudsman and Norwegian Consumer Council

58. The Competition Authority has cooperation agreements with the Consumer Ombudsman and Norwegian Consumer Council. In addition to ongoing cooperation on relevant cases, the three organizations have regular cooperation meetings twice a year. Topics covered at the meetings in 2010 include the mobile market, the television market, the advertising of residential properties on the Internet, the energy market, the book market, the insurance market and the taxi market.

59. Regular cooperation meetings have also been set up for discussion of the grocery markets by the Consumer Council, the Consumer Ombudsman, the National Institute for Consumer Research and the Competition Authority.

4. Resources of the competition authorities

4.1 *Resources overall (current numbers and change over previous year):*

4.4.1 Annual budget

60. In 2010, the NCA had a budget of 85.3² million Norwegian kroner (approximately 11.1 million euro). This represents approximately the same value in real terms as the corresponding figure in 2009.

4.4.2 Number of employees

61. As at 31st December 2010, the NCA had a total of 109 employees, including those on leave.

62. The Competition Authority has a relatively young and new workforce. In 2010 the average age was 37 years. Regarding time in service, an increasing number of employees have worked at the

² This figure excludes the budget for the Norwegian Complaints Board for Public Procurement (KOFA). As noted earlier on, KOFA had a budget of approximately 10 million Norwegian kroner in 2010.

Competition Authority more than four years, but many have also been recruited directly from universities and colleges so there remain many with short experience at the Authority.

63. Twenty-eight percent of all economists and lawyers working in professional positions have been employed for two years or less, and 28 percent have been employed for five years or more. This is nevertheless an improvement from the period immediately after the relocation (see Retrospective).

64. In 2010, the turnover was 17 percent, compared to 11 percent in 2009.

65. The table below gives an overview of the distribution of employees according to gender and position as at 31st December 2010.

Distribution of positions and gender

Position	Total	Women		Men	
Managers	18	6	(33 %)	12	(67 %)
Senior advisers	34	10	(29%)	24	(71 %)
Advisers	34	24	(70 %)	10	(30 %)
Senior consultants	22	17	(77 %)	5	(23 %)
Consultants	1	0	(0 %)	1	(100 %)
Trainees	2	0	(0 %)	2	(100 %)
Total (including trainees)	111	57	(51 %)	54	(49 %)

66. The Competition Authority has many employees with higher education. 90 percent of all employees in the Competition Authority have higher education. 74 percent have higher education as a lawyer or economist. In 2010, the Authority had six employees with doctorates.

4.4.3 Human resources (person-years) applied to enforcement, merger, and advocacy

67. The business of the NCA is organized by sector. In other words, most professional staff would work both with mergers, anti-cartel and market dominance-related issues.

68. The authority started in January 2009 registering resource use. In 2010, about 24 per cent of the professional staff resources were allocated to assessing mergers, anti-cartel and dominance represented 71 per cent, while advocacy represented 5 percent of the resource use.

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

5.1 Competition Policy and green growth – Interactions and Challenges

69. Green growth strategy is a policy focus that involves emphasizing environmentally sustainable economic progress. Together with innovation, going green can be a long-term driver of economic growth through, for example, investments in renewable energy and improved efficiency in the use of energy and materials. It is repeatedly stated in i.e. OECD documents relating to the work on developing a green growth strategy, that a successful shift to green growth can only be achieved through cost efficient and coherent policies.

70. The 2010 joint report from the Nordic competition authorities focused on the relationship between environmental and competition policy, and presents an overview of environmental related cases in which the Nordic competition authorities were involved in the last few years and the lessons learnt in relation to future enforcement, advocacy focus and the development of a green growth strategy.

71. An important point in the report is that competition policy has an important role to play in the development and implementation of a green growth strategy, and in facilitating a successful shift to green growth.

5.2 *Competition in the fuel market*

72. In 2008, there was a major media focus on gasoline prices and the observed pricing patterns. Fuel prices rose sharply on Monday afternoons and fell gradually throughout the week, reaching their lowest level during the weekends and Monday mornings. The Authority's investigation of the market revealed no indication that the weekly price pattern in the fuel market was due to collusion among fuel chains or among retailers.

73. Nevertheless, the Competition Authority launched a comprehensive investigation into the competition situation in the fuel market. The work was based on data collected from the Norwegian fuel chains in late 2008. The objective was to increase the Authority's knowledge about the market. The analysis was published in autumn 2010.

74. An important finding of the analysis is that the conditions that would normally be expected to influence the intensity of competition in the market, and thus the price level, do indeed have an effect. The research shows that not only is national concentration important for competition in the fuel market, but also that competition in small local areas can be an important factor.

75. The analysis shows that the number of stations within an area has a major effect on competition - and prices. Prices are higher at stations that have no competitors within 10 minutes driving time, compared with prices at those stations that have several competitors within a relatively short drive. It is also interesting to note that, throughout the week, price competition is tougher where stations have more nearby competitors, since prices fall faster at these stations. The difference between the highest and lowest margin in an average week is 15 øre³ for stations with no competitors within 10 minutes driving time. The difference for stations with at least three competitors within 10 minutes driving time is 55 øre, a difference of 40 øre.

76. The findings confirm, in other words, the assessments that were made in connection with the concentration of AS Norske Shell og YX Energi Norge AS in 2008 under section 16 (mergers) to the effect that the intensity of (local) competition affects the prices that consumers pay for fuel.

77. A second observation is that the weekly pattern of prices, with high prices on Monday afternoons followed by falling prices throughout the week and which was the subject of extensive media attention in spring 2008, has clearly established itself in the market. The Competition Authority investigations conducted in 2008 did not, however, uncover indications that the price pattern is caused by collusion among participants in the market for the sale of fuel. The material collected showed that the players independently adapt to the competitive situation in the market, and that the weekly price pattern reflected this. Such unilateral conduct in the market is not affected by the Competition Act prohibitions against horizontal price fixing.

78. The analysis also indicates that the presence of unmanned stations can result in lower prices. The emergence of a nationwide chain of unmanned stations without ties to manned service stations will likely be positive for competition both on a national level and in many local areas.

79. Following the report, the Competition Authority will prioritize resources to closely monitor the price and competition developments in this market in the future.

³ 100 øre equals 1 krone which equals 0,128 euro at today's exchange rate.

5.3 *Competition on the pensions market*

80. Public sector occupational pensions as a product represent a standardized service where premium and price are regulated by collective agreements, legislation and actuarial principles. There is nevertheless scope for competition on both price and quality.

81. The differences between occupational groups and employees within the public sector are small or non-existent when it comes to public sector occupational pensions as a product. Yet there is no overall market for public sector occupational pensions in terms of competition. Government employers are tied to the Norwegian Public Service Pension Fund. Nor is there any form of competition with regard to pension schemes for health authority employees owing to an agreement between the trade unions. A choice between alternative suppliers, and therefore real competition, is only possible for municipalities and counties.

82. To study competition in this market more closely, the Ministry of Government Administration, Reform and Church Affairs (FAD) asked the NCA to prepare a report. The report was finalized in 2010, and shows that the occupational pensions market for the municipal sector is highly concentrated and characterized by low customer mobility. The biggest supplier, KLP, has a much larger market share than Vital and Storebrand, and these market shares have been relatively stable in recent years. The barriers to market entry are so high that there is little room for potential competition on the market. The analysis also shows that this market is affected by both transfer costs and lock-ins. It appears that both Vital and Storebrand are capable of competitive tendering provided however that occupational pensions are put out to tender.

83. Despite the factors that point towards competition being limited, the analysis of possible responses indicates that competition between the three existing suppliers is feasible and there is consumer choice.

84. The degree of competition is strong *when* competitive tendering takes place. The problem is that virtually none of the municipalities put pensions out to tender. The analysis shows that only ten local authorities out of around 450 municipalities and counties invited bids in 2010. The report concludes that there is a potential for stronger competition in this market.

85. Introduction of mandatory tenders in relation to occupational pension schemes would trigger increased competition on the pensions market. Stronger competition is important if the pensions of the future are to be managed efficiently and economically.