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**ANNUAL REPORT ON COMPETITION POLICY DEVELOPMENTS IN NORWAY**

-- 2011 --

*This report is submitted by Norway to the Competition Committee FOR DISCUSSION at its forthcoming meeting to be held on 24-25 October 2012.*

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## Executive summary

1. The Competition Authority's main task is to enforce the competition act, prevent and deter competition crime and affect market architecture and –structure in a direction which promotes healthy competition. Uncovering illegal price collusion and bid rigging have received the highest priority the last five years. In 2004 a leniency program was introduced into the current competition act. It took relatively long time to establish confidence in the program amongst lawyers and the business community.

2. The Competition Authority has worked systematically over several years to strengthen its capability for investigative work and to put the fight against competition crime on the agenda, and to establish confidence in the leniency program. The results of these initiatives have materialized in 2010 and 2011.

3. A noticeable token of this came when The Competition Authority notified two leading asphalt paving companies of possible fines of a total of 430 million NOK (approximately 58 million EUR). The case received extensive news coverage on the national broadcasting channels and was a first-item news for several days. The case gives an excellent illustration of the usefulness of a leniency program and an effective enforcement.

4. Uncovering illegal cartels and bid-rigging will remain a key priority for the Competition Authority. However, in 2012, special attention will also be given to challenges enforcing the competition act in digital markets. This will be an on-going project, where the first step is to get a better grasp on the special features of these markets.

5. 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 11 cases in 2011. In 2012, three of the cases subject to complete notification in 2011 led to intervention by the agency.

6. 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](http://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 webpages had nearly 450,000 unique visitors in 2011. In addition, the Competition Authority was referred to in the media 3500 times.

7. 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, no extended investigation of possible violation of the prohibition provisions was initiated in 2011.

8. 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 main purpose of monitoring gross margins was to ensure that Tine's gross margins did not reach levels that could constitute a margin squeeze that is harmful to competition. The review and monitoring in 2011 revealed no specific conditions that would have provided a basis for further investigation by the agency. It can be added that the electricity market is also under continuous surveillance.

9. The domestic aviation market was specifically analyzed as part of an assessment of continuation of the ban on frequent flyer programmes in Norway. In a report prepared for the Ministry of Government Administration, Reform and Church Affairs, the Norwegian Competition Authority recommends

continuing the ban on frequent flyer or loyalty programs for most domestic airline routes in Norway, but is proposing to repeal the ban on the three largest city pairs, Oslo-Bergen, Oslo-Trondheim and Oslo-Stavanger. The Competition Authority considers that competition is sufficiently robust in these three busiest domestic air routes to recommend that they be excluded from the prohibition on earning points in loyalty programs. It is expected that the Ministry will reach a decision on this case in the fall of 2012.

10. The Competition Authority shall, according to the law, supervise competition in the various markets, *ia.* by implementing measures to promote market transparency. The Competition Authority considers it important that consumers must have sufficient information for the demand side of the market to work efficiently. The 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 and 2011 it performed necessary upgrades on its website in response to customers' demands for more detailed price comparisons.

11. Christine B. Meyer took over as the head of the Competition Authority on 1 April 2011. The position is for a term of six-years. In order to best be able to fulfill the tasks of the Authority, a work was started in the fall of 2011 to determine the main strategic goals for the next five-year period and an organizational structure suited to achieving these goals effectively.

12. The first strategic objective is to have a high international professional level in our work to deter harmful behaviour to competition. Working with this target will increase our impact in the courts. An important part of achieve this strategic objective is also to intensify our work in cases involving abuse of a dominant position. In addition, the Competition Authority has established good working relations with the academic community in Bergen. The NCA has good working relations to the law faculty and the economics department at the University of Bergen (UiB), in addition to the Norwegian School of Economics and Business Administration (NHH), all of which teach courses in competition law or competition economics. Members of the NCA staff teach courses in competition law and economics at these institutions on a regular basis. In addition, the Competition Authority has contributed to establish the Bergen Center for Competition Law and Economics (BECCLC), and signed in 2011 an agreement with the centre which included in addition to cooperation on research included measures to exchange personnel.

13. The second strategic objective is to be visible so that we can safeguard our social mission and prevent competition crime. This implies that we will work to increase our strategic media visibility, increasing the sector's knowledge of the competition act and be included when competition issues are discussed in society. In this regard, the Competition Authority works together with the two major enterprise federations of Norway, NHO and Virke, to promote compliance with the competition law, and to increase knowledge about the competition act in general and lenience in particular.

14. The third strategic goal relates to how the Competition Authority relates to the stakeholders and external parties. The Competition Authority is given very strong instruments for enforcing the competition act and when these instruments are used, it is especially important that the parties who are in contact with the Competition Authority are dealt with in a professional manner and with respect.

15. As of January 1<sup>st</sup> 2012 the new organizational structure was in place. The organization now consists of three separate market departments. These market departments will receive specialized support from the legal department, the chief economist's team as well as the investigations department. The communications department has been strengthened to better achieve ambitions related to visibility and advocacy, and a director has been appointed with a special responsibility to coordinate external relations.

16. The new organizational structure with a clear division of responsibility and authority combined with highly skilled and motivated employees, and a substantial international commitment and contribution provides a good basis for achieving the strategic goals.

17. Finally, when it comes to proposed changes in the legal framework, it can be noted that the committee of experts that the Ministry of Government Administration, Reform and Church Affairs appointed to review and evaluate the Competition Act late in 2010 delivered its report to the ministry early in 2012. The committee proposes several changes, which in addition to leniency also for persons, binding commitments includes new rules on when a merger or an acquisition (i.e. “concentrations”) should be notified to the Competition Authority.

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

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

18. **New Fining Regulations for Antitrust Infringements.** The Norwegian Ministry of Government Administration, Reform and Church Affairs amended in December 2011 the Regulation on the calculation of fines for breaches of the anti-trust provisions of the Competition Act (the Regulation). It brings it in line with the methodology used by the EFTA Surveillance Authority and the European Commission.

19. The Competition Authority may impose fines of up to 10 % of the undertaking’s turnover. When calculating a fine, the Competition Authority may under the new rules set the basic amount of the fine up to 30 % of the value of sales in the market concerned, depending on the gravity of the infringement, and multiply that figure by the number of years of the infringement. In particularly severe cases, the fine can be increased by 15 to 25 % of the value of sales in the market concerned. Another new feature in the amended regulations is that the Competition Authority is required to state which factors have been decisive in determining the final amount of the fine. This implies a more transparent and predictable framework regarding the consequences of antitrust infringements.

20. The new regulations entered into force on 1 January 2012.

### ***1.2 Other relevant measures, including new guidelines***

21. **New tariff system for taxis.** On September 1<sup>st</sup> 2011, a new tariff system was introduced for all taxis in the country. The regulations will make it easier to compare prices from competing taxi companies. In addition, the taxi bill will be easier to understand, and it will be easier for customers to check whether the price they pay for a taxi ride is correct. The new tariff system is called the parallel tariff. The price of a trip is calculated based on how far the taxi travels and how long the trip takes, regardless of speed. Under the old system (called a cross-over tariff) the tariff varied according to the speed of the taxi. This made it difficult for the customer to understand how the price of the trip was calculated.

22. Moreover, the Competition Authority, together with the Consumer Ombudsman, the Consumer Council and the Norwegian Taxi Association, has worked to make it easier for consumers to navigate the taxi market. Among other things, the taxis will have highly visible stickers with price information, and signs with price information can be posted at taxi ranks. In addition, most taxi companies post their price lists on their websites. A so-called «reference price» is also calculated, which will show the price of a taxi trip over a standard route (defined as an 8 km long journey in 13 minutes). The regulation requiring taxis to use the new tariff system follows from authority given to the Competition Authority pursuant to the Price Policy Act. The new rules apply from 1 September 2011, and it is a criminal offence to break them.

### **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 Competition Authority and the Ministry acted as secretariat for the committee. The committee delivered its report to the ministry early in 2012.

24. The committee proposes several changes, which in addition to giving the Competition Authority the ability to grant leniency also for persons not only firms, binding commitments and new rules for seizures in dawn-raids also includes new rules on when a merger or an acquisition (i.e. “concentrations”) should be notified to the Norwegian Competition Authority (the NCA). Under the current Norwegian competition law regime, concentrations are subject to notification if the undertakings concerned have a combined annual turnover in Norway exceeding 50 million NOK (approximately 6.61 million EUR). However, if only one of the undertakings concerned has an annual turnover in Norway exceeding 20 million NOK (approximately 2.68 million EUR), notification is not required. These low thresholds force both market operators and the Competition Authority to spend unnecessary amounts of time and resources on a number of concentrations that do not have significant anti-competitive effects on the relevant markets. As mergers and acquisitions are prohibited from being implemented before they have been notified to and reviewed by the NCA, any concentration subject to notification has to be put on hold until the Competition Authority finishes its proceedings.

25. The committee proposes that the threshold for total, annual revenue in Norway should be increased from 50 million NOK to 1 000 million NOK (approximately 134 million EUR), while the threshold for individual revenue should be increased from 20 million NOK to 100 million NOK (approximately 13.41 million EUR). According to the committee this could lead to 70% fewer standardized notifications to the NCA. The committee argues that this could free up the NCA’s resources and contribute to increased control of those concentrations that actually may impede effective competition on the relevant markets. In addition to a more effective merger control, it is pointed out that undertakings in Norway with the new rules can relate to notification rules more consistent with the rules in Norway’s neighboring countries and the rest of Europe.

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

26. 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.

27. 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*

28. 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. The Competition Authority will also collaborate with the major organizations for employers to increase knowledge about the competition act in general, leniency and how to effectively comply with the competition act.

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 2006-2011

	2006	2007	2008	2009	2010	2011
Securing evidence section 25 – cases/locations	2/4	2/6	3/5	2/7	4/19	4/9
Depositions (formal statements) section 24 – cases/locations	2/7	3/12	4/12	2/9	6/32	9/48

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 introduced by the Competition Act of 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 2007-2011

	2007	2008	2009	2010	2011
Number of applications	2	0	3	6	3

#### 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 behavior in 2011.

33. During the course of the year, the Authority made two decisions related to the prohibition regulations.

- **Roofing companies fined.** Two roofing companies in the Bergen area were subject to administrative fines for breaking the competition act in connection with a bidding competition. One of the companies does not have to pay the fine because it notified the Competition Authority about the illegal cooperation (leniency).
- **Taxi companies fined.** Three taxi companies in Follo were being fined for their illegal collaboration in connection with competitive tendering rounds advertised by the Oslo University Hospital. Two competing taxi dispatchers, Follo Taxisentral and Ski Taxi, collaborated through a

jointly-owned company, Ski Follo Taxidrift AS, on submitting bids during two competitive tendering rounds during the autumn of 2010. These competitive tendering rounds applied to the transport of patients for the Oslo University Hospital, valued respectively at up to 20 million NOK and NOK 30 million. Ski Follo Taxidrift has been given the largest fine of 2.2 million NOK. Follo Taxisentral will have to pay a fine of 400,000 NOK and Ski Taxi a fine of 250,000 NOK. All three fines are being imposed for breaches of Section 10 of the Competition Act which bans collaboration between competitors designed to limit competition.

- **Notification of large fines for asphalt collusion.** In October, the Competition Authority notified that Veidekke may be fined 270 million NOK (approximately 36 million EUR) and NCC 165 million NOK (approximately 22 million EUR) for violating the competition act related to extensive collusion between the companies in connection with asphalt paving in the counties of Nord-Trøndelag and Sør-Trøndelag, the area surrounding the city of Trondheim. Through close dialog before competitive bidding, the two companies divided large public contracts between themselves. The collusion occurred during 2005-2008. Veidekke may, however, be exempted from the fine because it notified the Competition Authority about the illegal cooperation (leniency).
- **Legal action against Norges Turbileierforbund.** The Competition Authority fined Norges Turbileierforbund (National Coach Owners' Association) 400,000 NOK 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. However, the parties in the Bus-case withdrew their appeal to the Court of Appeal, and the NCA's decision is thus legally binding.
- **Legal action against contractors in Steinkjer.** In 2009 the Competition Authority fined contractors Gran og Ekran A/S and Grunnarbeid A/S 2 and 5 million NOK 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 in 2010 lasting a week the fines were upheld by Sør-Trøndelag District Court. Both companies have appealed against the ruling. The Court of Appeal upheld the NCA's decision in 2011 in substance, but reduced the fine level significantly because the court found the infringement negligent and not intentional. The NCA has appealed the judgment to the Supreme Court.
- **Legal action against Tine.** In February 2007 the Competition Authority decided to impose on Tine an administrative fine of 45 million NOK 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 30 million NOK.

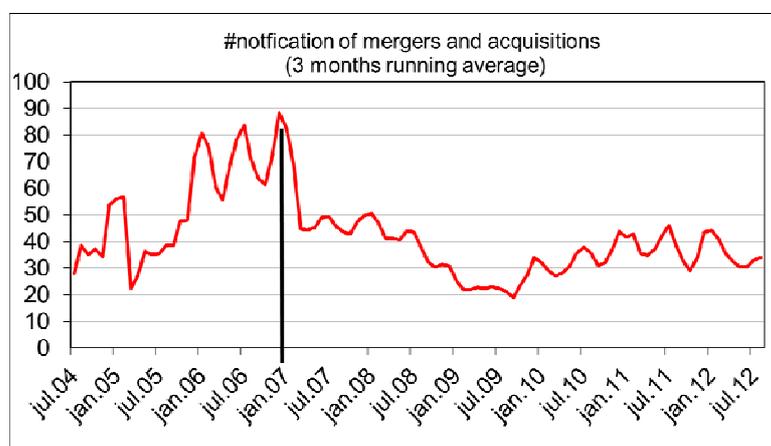
Tine appealed against the Appeal Court's ruling to the Supreme Court. In June 2011 the Norwegian Supreme Court concluded that Tine did not abuse its dominant position in its annual negotiations with Rema 1000 in autumn 2004.

This is the first time the Supreme Court considered a case of abuse of dominant position (section 11 of the Competition Act). 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.

## 2.2 Mergers and acquisitions

34. The financial crisis of 2009 and the low economic activity meant that few mergers and acquisitions were notified to the Authority. As can be seen from the figure below, this trend was reversed by the end of 2009. The Competition Authority received notification of 460 concentrations in 2011. By comparison, it received 412 notifications in 2010 and 293 notifications in 2009. Full notification was requested in 11 cases (9 in 2010), and one full notification was sent voluntarily (instead of standardized notification).



35. The NCA intervened in two concentrations in 2011.

36. The Competition Authority approved the merger between Norli Gruppen AS / Aschehaug & Co. (W. Nygaard) AS and NorgesGruppen ASA / NorgesGruppen Faghandel AS / Norgesgruppen Bok & Papir AS, on the condition that seven book shops would be sold. Without this remedy competition would be reduced in a number of local markets.

37. The Competition Authority also decided to intervene in the merger between Lemminkäinen Norge AS ("Lemminkäinen") og Mesta Industri AS ("Mesta"), because the asphalt market in northern Norway concentration would become too high. The Competition Authority demanded, conform the proposed remedy of Lemminkäinen, Lemminkäinen to sell one asphalt work in Harstad.

38. The table below presents an overview of the Authority's activities in the area of merger control in the period 2007-2011.

	2007	2008	2009	2010	2011
Standardized notifications of mergers and acquisitions	561	444	293	412	460

## 2.3 The Norwegian Complaints Board for Public Procurement (KOFA)

39. The Norwegian Complaints Board for Public Procurement (KOFA) is a national complaints body that enforces the Norwegian regulations on public procurement. The Board has 10 members (all lawyers), who are appointed by the Government. KOFA's decisions are advisory, and the body's main role is to offer

the public authority and the tenderer a cheap and efficient decision which may contribute to solve the conflict. Until July 1st 2012 KOFA could impose fines for illegal direct award of contracts. As a consequence of the implementation of Directive 2007/66/EC, the authority to issue fines for illegal direct procurement has been transferred to the civil courts.

40. 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.

41. There has been a substantial increase in the number of cases dealt with by KOFA over the last few years. In 2011 KOFA received 332 complaints. This represents a decrease from 2011, but the number of complaints in 2011 are still the second highest since KOFA was established. In the same period the Complaints Board dealt with a total of 293 cases, including 87 cases which were potentially involving fines, ie. illegal direct procurement. In 2011 the Complaints Board received 81 complaints about illegal direct procurement, slightly less than in 2010 where it received 104 such complaints.

42. Case statistics for the period 2003-2011 is presented below.

	2003	2004	2005	2006	2007	2008	2009	2010	2011
<b>Complaints</b>	266	288	268	152	153	216	277	407	332
<b>Decided</b>	182	250	264	176	217	171	230	280	293
<b>Rejected</b>	77	106	137	50	48	43	50	84	100
<b>Violations</b>	52	80	71	77	118	66	112	123	86
<b>Non-violations</b>	24	10	27	31	38	40	36	30	40

43. Illegal direct procurement is procurement that is not advertised according to the public procurement regulations. Infringements on the duty to advertise 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 procurement regulations. KOFA issued in total 13 fines to different public authorities in 2011 for illegal direct procurement. The largest fine (875 000 NOK ) was given to Bærum Municipality for illegal direct procurement of case handling services. In total KOFA issued fines for approximately 2,8 million NOK in 2011.

44. For the financial year 2011 KOFA's budget was approximately 12.5 million NOK (approximately 1.7 million EUR) In the same period, total revenue from imposed penalties amounted to approximately 2.8 million NOK (approximately 0.37 million EUR).

45. **Advocacy.** There is a 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 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.

### 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

46. 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.

47. 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***

48. 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).

49. 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 2011.

50. 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.

51. In 2011, the Competition Authority produced 19 hearing statements expressing concerns of consequences for competition related to proposed laws and regulations.

52. In 2010 the Norwegian Government appointed a Commission to inquire into the power relations in the food supply chain in Norway. According to the Commission mandate, the main object was to describe effects of recent and possible future development in the food supply chain. The report, "Report on the Power relations in the Food Supply Chain in Norway" was presented by the Commission in April 2011. On December 1st 2011, the Competition Authority sent a comprehensive hearing statement on the report, expressing that it is critical to many of the recommendations in the report, amongst them the adoption of an act relating to negotiations and fair trading practices in the grocery sector.

### **3.3 *Increased transparency and awareness of consumers***

53. 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.

54. **Electricity price comparison service.** 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 service is very popular, in particular in the fall when electricity prices typically increase. Around 650,000 visits were made to the electricity price comparison service in 2011.

55. **Dual price calculation system for taxi transport.** 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, and is described in greater detail above-

56. **Cooperation with the Consumer Ombudsman and Norwegian Consumer Council.** 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.

57. 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):

###### 4.1.1 Annual budget

58. In 2011, the NCA had a budget of 89.3<sup>1</sup> million Norwegian kroner (approximately 11.6 million EUR). This represents a small increase in real terms compared with the corresponding figure in 2010.

###### 4.1.2 Number of employees

59. As at 31st December 2011, the NCA had a total of 114 employees, including those on leave.

60. The Competition Authority has a relatively young and new workforce. In 2011 the average age was 37 years. Regarding time in service, an increasing number of employees have worked at the Competition Authority more than five years, but many have also been recruited directly from universities and colleges so there remain many with short experience at the Authority.

61. 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).

62. In 2011, the turnover was 14 percent, compared to 17 percent in 2010.

63. The table below gives an overview of the distribution of employees according to gender and position as at 31st December 2011.

**Distribution of positions and gender**

<b>Position</b>	<b>Total</b>	<b>Women</b>		<b>Men</b>	
Managers	18	9	(50 %)	9	(50 %)
Senior advisers	34	10	(29%)	24	(71 %)
Advisers	39	29	(74 %)	10	(26 %)
Senior consultants	21	15	(71 %)	6	(29 %)
Consultants	1	0	(0 %)	1	(100 %)
Trainees	1	0	(0 %)	1	(100 %)
<b>Total (including trainees)</b>	<b>114</b>	<b>63</b>	<b>(55 %)</b>	<b>51</b>	<b>(45 %)</b>

<sup>1</sup> This figure excludes the budget for the Norwegian Complaints Board for Public Procurement (KOFA). As noted earlier on, KOFA had a budget of approximately 12.6 million Norwegian kroner in 2011.

64. The Competition Authority has many employees with higher education. 86 percent of all employees in the Competition Authority have higher education. 73 percent have higher education as a lawyer or economist. In 2011, the Authority had nine employees with doctorates.

#### 4.1.3 *Human resources (person-years) applied to:*

65. **Enforcement, merger, and advocacy.** 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.

66. The authority started in January 2009 registering resource use. In 2011, about 35 per cent (24 per cent in 2010) of the professional staff resources were allocated to assessing mergers, anti-cartel and dominance related cases represented 50 per cent, while advocacy and international cases represented 15 percent of the resource use.

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

- **Effects of the loyalty programs on competition in Norwegian air traffic.** In a report prepared for the Ministry of Government Administration, Reform and Church Affairs, the Competition Authority recommends continuing the ban on frequent flyer or loyalty programs for most domestic airline routes in Norway, but is proposing to repeal the ban on the three largest city pairs, Oslo-Bergen, Oslo-Trondheim and Oslo-Stavanger. The Competition Authority considers that the competition is sufficiently robust in these three busiest domestic air routes to recommend that they are excluded from the prohibition on earning points in loyalty programs. The major distinction in the Norwegian aviation market is between those airline passengers who face a monopoly and those who face competition. A full repeal of the ban on frequent flyer programs could lead to a significantly diminished schedule of flights and more monopoly routes. However, each of the three routes where the Competition Authority suggests that the ban can be removed serves well over a million passengers annually. The Competition Authority considers it unlikely that the airlines will reduce their capacity significantly on these routes if earning loyalty points is allowed.

The recommendation from the Competition Authority is based on a competition economics analysis of the effects of the loyalty programs on competition in Norwegian air traffic. Based on this assessment, the Authority also examined whether there is legal authority to maintain a prohibition within the framework of the Section 14 of the Competition Act.<sup>2</sup>

- **Competition in the fuel market.** 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.

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.

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

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<sup>2</sup> This section of the Competition Law states that if it is necessary to promote competition in the markets, regulation may be implemented that intervenes against terms of business, agreements or actions that restrict or are liable to restrict competition contrary to the purpose of the Act.

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.

The Competition Authority started in 2011 a further analysis of the competition situation in the fuel market. The project consists of two parts: Competition and margins in the Norwegian fuel market, and an evaluation of the Shell and YX Energi merger in 2008, which was approved under section 16 (mergers) conditioned on structural remedies. The project is expected to be completed during the first part of 2013.