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**Directorate for Financial and Enterprise Affairs
COMPETITION COMMITTEE**

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ANNUAL REPORT ON COMPETITION POLICY DEVELOPMENTS IN SWEDEN

-- 2013 --

18-19 June 2014

This report is submitted by Sweden to the Competition Committee FOR DISCUSSION at its forthcoming meeting to be held on 18-19 June 2014.

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EXECUTIVE SUMMARY

1. Within the field of competition we have focused in particular on the application of legislation and combating cartels. Another priority has been to apply the provision in the Competition Act relating to competition neutrality and to intervene when private and public actors have abused their dominant position on the market.
2. This year we saw the final judgment of the Market Court in the case against TeliaSonera. The company was found guilty of abusing its dominant position by pushing smaller competitors out of the broadband (ADSL) market through its pricing. TeliaSonera was sanctioned to pay SEK 35 million in administrative fines for the damage to competition.
3. Private enterprise must not be eliminated by unfair competition from the public sector. This is the essence of the stricter Competition Act that was introduced a few years ago, and now the first judgment based on that act has gained legal force. It pertains to the municipal bus company Skelleftebuss, which is no longer allowed to sell chartered bus services as it did before.
4. When it comes to our responsibility for procurement our supervisory activities have prioritised focusing on illegal awards of direct contracts. Emphasis has been placed on procurement fines, but measures to promote the participation of small and medium-sized enterprises in public procurements have also been in focus.
5. The government has assigned the Swedish Competition Authority the responsibility for an increased procurement support. Expertise and tasks that currently lie with a number of other agencies will gradually be transferred to the Swedish Competition Authority (SCA) and a new modern organisation will take form at the Authority.

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

6. No amendments to competition laws and policies have been proposed or adopted in 2013.

2. Enforcement of competition laws and policies

2.1 Action against anti-competitive practices, including provisions relating to competition neutrality

2.1.1 Summary of activities of the SCA

2.1.1.1 Anti-competitive cooperation and abuse of dominant position

7. During 2013, the SCA made 103 decisions pursuant to Chapter 2, Articles 1 and 7 of the Swedish Competition Act and Articles 101 and 102 of Treaty on the Functioning of the European Union (TFEU). Several investigations were closed due to the parties eliminating the competition concerns in the course of the case being processed.

2.1.1.2 Mergers

8. The SCA adopted 45 decisions relating to concentrations between undertakings. Three cases were subject to special investigation. In one of these, the SCA had ordered the purchaser to report its acquisition.

2.1.1.3 Anti-competitive sales activities by public entities

9. The SCA made three decisions on cases relating to anti-competitive sales activities by public entities. We also decided to institute proceedings before the Stockholm City Court to prohibit anti-competitive sales activities by public entities in two cases.

2.1.1.4 Tip-offs and complaints

10. The SCA received around 1,100 tip-offs and complaints from companies, customers and consumers in 2013. The main part concern competition matters. Approximately 70 of these related to anti-competitive sales activities by public entities, 25 concerned systems of choice and the remaining 500 related to public procurement, including illegal direct award of contracts, unclear contract documents or decisions that were called into question by suppliers.

2.1.2 Significant decisions and rulings of the courts

2.1.2.1 Abuse of a dominant position – TeliaSonera

11. TeliaSonera has been found guilty of abusing of its dominant position. A little over eight years after the summons application was submitted, the Market Court has sided with the SCA and sanctioned TeliaSonera to pay SEK 35 million in administrative fines. This was a fundamentally important abuse case, where TeliaSonera in the early 2000s abused its dominant position on the market for access to fixed access networks via resale services for ADSL connections.

2.1.2.2 Stockholm City Court – Däckia Euromaster

12. In 2010, the SCA brought an action against Euromaster AB and Däckia AB for participating in unlawful cartel activities. The two companies submitted joint tenders in a public procurement in 2005. In

November 2013, a main hearing was held in Stockholm City Court. The judgment, which sided with the SCA, was issued on 21 January 2014.

2.1.2.3 Räddningstjänsten Dala Mitt

13. The Municipal Räddningstjänsten Dala Mitt (RDM) has, according to the SCA violated the Competition Act by refusing a competing company access to an exercise area. The SCA brought an action against RDM, but Stockholm City Court issued a verdict of acquittal and did not find that the actions of RDM violated the Competition Act. According to the SCA, the City Court set higher requirements in terms of effects than what the legislators intended, and the case was appealed to the Market Court, which in a judgment of 31 January 2014 sided completely with the Authority.

2.1.2.4 Stockholm City Court – Skelleftebuss

14. Stockholm City Court has sided with the SCA and prohibited Skelleftebuss AB from chartering buses where the client is a party other than the municipality. This judgment is now legally binding.

2.1.3 *Description of significant cases, including those with international implications*

2.1.3.1 Anti-competitive cooperation

- *Aleris, Capio, Hjärnkärlgruppen*

15. The SCA has submitted a summons application to Stockholm City Court, petitioning for three companies in the health service sector to be fined a total of close to SEK 30 million in administrative fines. The background to this application is that companies have unlawfully collaborated in connection to a procurement process. [Ref. no. 483/2013]

- *Suspected cartel – removal companies*

16. The SCA has made unannounced visits to several companies in the removal services industry. These visits were a step to finding evidence to map out and corroborate suspicions of potentially anti-competitive cooperation. Investigations are on-going. [Ref. no. 93/2013]

- *Suspected anti-competitive cooperation on statistics in the book industry*

The SCA has investigated the planned cooperation between the Swedish Publishers' Association and the Swedish Booksellers Association regarding statistics on book sales. Based on amendments and the results of the investigation, the SCA has made the assessment that there is no need for further investigation, and has therefore closed the case. [Ref. no. 260/2013]

2.1.3.2 Abuse of a dominant position

- *Swedavia*

17. The SCA has submitted a summons application to Stockholm City Court, with a claim against Swedavia for SEK 340,000 in administrative fines for abuse of a dominant position. The background is that Swedavia's contractor EuroPark charged a special fee for nine months in 2011 for meeting arriving taxi customers with a sign at the airport. Swedavia has stopped charging this fee after the Market Court established in a judgment that it was illegal. [Ref. no. 378/2013]

- *Price labels in refrigerators for certain tobacco products (snus)*

18. In 2013, the SCA has continued to investigate the alleged abuse of a dominant position on the market for sales of snus to retailers. [Ref. no. 415/2012]

2.1.3.3 Anti-competitive sales activities by public entities

- *Strömstads badanstalt*

19. The SCA has submitted a summons application to Stockholm City Court in which it requests the Court to prohibit the municipality of Strömstad from operating a gym and spa facility in direct competition with private operators in the near vicinity. The case is still pending at court. [Ref. no. 628/2012]

- *Malmö Municipality – bowling arena*

20. The SCA has investigated whether the planned municipal bowling arena in Malmö would be in violation of the competition rules. When the municipality cancelled its plans for the bowling arena, the SCA closed the case. [Ref. no. 62/2012]

- *Mälarenergi broadband*

21. In 2011, the SCA submitted a summons application to Stockholm City Court, with a claim against Mälarenergi Stadsnät AB to be prohibited from selling certain broadband services in other municipalities. After the case was brought to court, the operation in question was transferred into a new company which is co-owned by several municipalities. Through this broader ownership, they have succeeded in adapting to the regulations stating that a municipal company may not normally conduct any operations outside its own municipality. The SCA has therefore withdrawn its claim and closed the case. [Ref. no. 438/2011]

- *Borås ground and works operations*

22. The SCA has submitted a summons application to Stockholm City Court requesting the Court to prohibit the municipal Services Office in Borås from selling ground and works operations to contractors other than the municipality itself. [Ref. no. 45/2012]

2.2 Mergers and acquisitions

2.2.1 Statistics on number, size and type of mergers notified and/or controlled under competition law

23. The following table shows the number of new cases registered during 2013 under the Competition Act and the number of decisions during the same period. The total number of cases pending at the end of 2013 amounted to seven.

Year	Registered new cases		Decisions	
	2012	2013	2012	2013
Mergers	36	48	42	45

2.2.2 *Summary of significant cases*

2.2.2.1 The SCA stopped Assa Abloy's planned acquisition of Prokey

24. The SCA brought a case before Stockholm City Court to prevent Assa Abloy from acquiring Prokey. Such an acquisition would have given Assa Abloy a monopoly on the wholesale services market for locksmiths. The SCA investigation showed that this merger would significantly cause competition on the market to deteriorate. This could have led to a more limited supply and higher prices for locksmith companies in Sweden. After its plea of inadmissibility was rejected by the City Court, Assa Abloy chose not to complete the acquisition, and the SCA withdrew the summons application. [Ref. no. 126/2013]

2.2.2.2 Approval of acquisitions on the market for occupational pension administration

25. After a special investigation of KPA's acquisition of SPP's operations on the market for occupational pension administration within the municipal sector, the SCA has decided not to take any further action on the matter. The overall assessment was that the acquisition would affect competition to such a small extent that it did not warrant a prohibition. [Ref. no. 276/2013]

2.2.3 *Follow-up decisions*

2.2.3.1 Obligation with fine for default – ice hockey clubs in The Swedish Ice Hockey League

26. The SCA has made an interim decision that ice hockey clubs affiliated with the Swedish Ice Hockey League must decide whether or not they wish to contract 'locked-out' NHL players. The decision was subject to a fine for default of SEK 20 million. On 18 December 2012, the Swedish Market Court repealed the SCA's interim decision. The SCA closed the case in January 2013, when the North-American lockout ended and there was no longer any question of NHL players playing in Sweden. [Ref. no. 501/2012]

2.2.3.2 Follow-up of MD 2012:16 – Swedish Automobile Sports Federation

27. At the end of 2012, the Market Court decided that the Swedish Automobile Sports Federation was not allowed to implement loyalty regulations which meant that its members were unable to participate in competitions organised by other actors. During 2013, the SCA audited the new regulations of the Swedish Automobile Sports Federation and their compliance with the decision of the Market Court. [Ref. no. 166/2013]

2.2.3.3 OK-Q8

28. For its government commissioned assignment to review competition in Sweden, the SCA collected data for an empirical analysis of competitive conditions in various sectors, including the fuel market. The SCA requested data from various petrol companies, pursuant to the Act (2010:1350) on disclosure obligations in matters of market and competition conditions. One of the companies appealed to the Market Court, but still submitted essentially the same information that had been requested. The Market Court therefore did not consider the appeal in substance, only in part. [Ref. no. 416/2013]

2.3 *Stakeholders' views*

29. For the 21st year in a row, the SCA has carried out a stakeholder survey specifically on the implementation of the Competition Act. The stakeholders asked to participate are: large companies (200 employees or more), SMEs (less than 200 employees), trade associations, municipal authorities and county councils, business lawyers and the group 'public authorities and agencies'.

30. A majority within the interest groups feel that the SCA actively counteracts serious violations of the Competition Act, and provides guidance for companies and authorities regarding how to act in matters relating to competition. When taking into account all of the different interest groups, 56 per cent said that their level of confidence in the SCA was 'high' or 'very high'.

31. The general attitude towards the competition legislation is quite similar among the various interest groups. The proportion of positive respondents ranges from 47 per cent (smaller enterprises) to 68 per cent (trade associations). In terms of the stakeholders' views of how the SCA communicates its prioritisation of cases, 70 per cent say that they think it is good for the Authority to have a priority policy that is openly publicised.

32. Every year, companies that are parties in cases relating to concentrations between undertakings and lawyers who represent these companies are asked to assess how their cases were handled. Among those who have assessed our case management of concentrations between undertakings, as many as 80 per cent give a positive overall opinion. In the last three years, no one has given a negative overall opinion.

3. Enforcement of public procurement laws

33. Supervisory activities have been prioritised with focus on the illegal direct award of contracts. Since 2010, the SCA has been allowed to bring actions to court requesting the imposition of a procurement fine on municipal authorities, county councils and government authorities that have illegally awarded a direct contract. This year we submitted 19 applications for procurement fines on our own initiative (facultative) and four applications for mandatory procurement fines to the Administrative Court. In addition, we handled 89 other supervisory cases in accordance with the public procurement laws. We have also carried out supervision in accordance with the Act on System of Choice in the Public Sector.

3.1 Law enforcement and supervision

3.1.1 Significant decisions and rulings of the courts

3.1.1.1 Sveriges Television AB¹

34. The SCA's request of SEK 95,000 in procurement fine due to direct award of contracts in relation to purchases concerning staff parties was granted by the administrative court of Stockholm on 29 April 2013.

3.1.1.2 The Swedish Defence material Administration (FMV)

35. Three decisions of the administrative court in Stockholm in relation to three cases submitted by the SCA against FMV became legally binding when the Administrative Supreme Court did not grant leave to appeal on 7 June 2013. In total the procurement fine amounted to approximately SEK 1 million. The cases concerned direct procurement with reference to exemptions such as among other things technical reasons.

¹ The case is an example of a series of cases which concerned procurement of events, representations and parties for staff or other stakeholders.

3.1.2 *Description of significant cases*

3.1.2.1 SJ AB

36. With the underlining main question whether the state owned train operator is a contracting entity the SCA submitted an application requesting SEK 8.5 million in procurement fine for illegal direct award of two cleaning service agreements, at a value of approximately SEK 116 million. [Ref. no. 48/2013]

3.1.2.2 Statens servicecenter

37. The SCA has submitted an application requesting SEK 1.45 million in procurement fine relating to direct procurement of consulting services, at a value of approximately SEK 20 million. [Ref. no. 330/2013 and 331/2013]

3.1.2.3 Täby municipality

38. An application has been submitted requesting SEK 5 million in procurement fine due to direct procurement of contract work at a value of approximately SEK 146 million. The requested amount was put down already in the SCAs application taking into account that the municipality reported the breach on own initiative. [Ref. no. 440/2013 and 454/2013]

3.1.2.4 Haninge Bostäder AB

39. Questioning a series of transactions argued to constitute purchase of shares and therefore not falling under the legal framework for procurement, the SCA submitted an application requesting SEK 10 million in procurement fine arguing that in reality the procurement consists of an illegal direct award of construction contracts, worth approximately SEK 136 million. [Ref. no. 461/2013]

3.1.2.5 Stockholms läns landsting

40. Application submitted requesting SEK 3 million in procurement fine due to direct procurement of services as well as copiers and printers, to a value of just over SEK 40 million. [Ref. no. 765/2013]

3.1.3 *The Council for Public Procurement Issues*

41. The Council for Public Procurement Issues provides important support in the SCA's work to supervise public procurement. The Council is a forum for the exchange of experiences concerning both general procurement issues and the need for measures to support the development of effective public procurement. Members of the Council are appointed by the SCA.

3.1.4 *Views of our stakeholders on the supervision of public procurement*

42. For the seventh consecutive year in a row we conducted a stakeholder survey focusing solely on issues relating to public procurement. The stakeholders asked to participate were: large companies (200 employees or more), SMEs (less than 200 employees), trade associations, municipal authorities and county councils, business lawyers and the group 'public authorities and agencies'.

43. A majority within all these groups feel that the SCA provides guidance for companies and authorities regarding how to act in matters relating to public procurement. More than half also feel that the SCA actively counteracts serious violations of the procurement legislation. At the same time, the same proportion feels that actors often or quite often break the rules.

44. When it comes to attitudes towards the regulations on public procurement, the general opinion is relatively similar within the various interest groups. The proportion of positive respondents ranges from 27 per cent (business lawyers) to 44 per cent (public authorities and agencies). Over the last three years, the attitude towards the regulations has remained more or less the same, and close to 40 per cent say that they are neither positive nor negative. In terms of the stakeholders' view of how the SCA communicates its prioritisation of cases, 70 per cent say they think it is good for the SCA to have a priority policy that is openly advertised.

45. When taking into account all of the different interest groups, 56 per cent said that their level of confidence in the SCA was 'high' or 'very high'. Over half of the respondents gave a positive overall opinion of the way we handled their cases, and in the assessment of staff competence and knowledge, the proportion of positive notes increased from 57 to 65 per cent. When it comes to communicating comprehensible information or decisions, the proportion of negative responses has decreased from 27 to 9 per cent.

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

4.1 Advocacy

46. One of the tasks of the SCA is to be aware of obstacles to effective competition in public and private operations. We are to present proposals for the opening up of competition and for regulatory reform, and we must also follow up developments within the area of competition. Public procurement represents a large and important part of the national economy, with purchases corresponding to approximately 16-19 per cent of the gross national product. In light of this, the SCA has, throughout the year, and in different ways and on a number of occasions, presented concrete improvement measures directed at both the legislator and public procurers. We describe our proposals for improvement measures in reports, responses to official consultations and official communications to the government. We also provide comments and opinions for other public authorities that would like to know our views on a particular investigation or changes to the regulatory framework.

4.1.1 Reports

4.1.1.1 Competition

- *Competition in Sweden 2013*

47. The SCA was commissioned by the government to present a current account of competition in Sweden and to present possible measures to promote competition. The report is an account focusing on a selection of markets: construction, fuel sales and adult dental care. Based on the regulations on anti-competitive sales activities by public entities, the report emphasises competition between public and private actors. The SCA also presented a proposal for how to strengthen competition within the scope of the Act on System of Choice in the Public Sector (LOV). The assignment also included an analysis of the need for a deeper study, or supplementing of the evaluations conducted of earlier regulation reforms. The latter part of this commission has been accounted for in an interim report to the government. [SCA report series – Interim report (2013:3), Final report (2013:10)]

- *Unfair competition in public procurement*

48. The SCA has looked at problems in the implementation of the procurement rules in cases where suppliers use various forms of illegal actions as a means of competition. The report describes how

procuring authorities can use the procurement rules to counteract unfair competition. [SCA report series 2013:6]

- *Competition in the financial service market – deposits, mortgages and funds*

The SCA has investigated the market and competition conditions for some of the most important financial services for households; deposits, mortgages and funds. The report presents a number of proposed measures to increase competition, such as reducing lock-in effects and giving consumers more choice. [SCA report series 2013:4]

- *Moving image – an analysis of the moving image market*

In collaboration with the Swedish Broadcasting Authority, the Competition Authority has mapped out the development on the moving image market over the last few years. The report is based on thorough interviews with relevant actors in the industry and a broader survey focusing on consumer behaviour and mobility. [SCA report series 2013:2]

- *The retail trade monopoly on alcoholic drinks*

49. The SCA has been requested to report to the European Commission twice a year regarding Systembolaget's way of operating. In this year's reports, we have given an account of the government investigation on the supervision of e-commerce and marketing of alcoholic drinks etc. (SOU 2013:50). [Ref. no. 7/2013]

4.1.1.2 Public Procurement

- *Unfair competition in public procurement*

50. The SCA has looked into problems in the application of the procurement regulations in cases where suppliers use various forms of illegal actions as a means of competition. The report describes how procuring agencies can use the procurement regulations to counteract unhealthy competition. [SCA report series 2013:6]

- *Appeals in public procurement – facts and figures*

51. This report gives an account of the appeals regulations and the available statistics on procurements where appeals have been lodged. The SCA gives suggestions that could make the process more efficient, and reduce the negative effects of appeals. [SCA report series 2013:5]

- *Facts and figures on public procurement*

52. With the aim of contributing to a discussion and debate on public procurement, the report presents facts and figures from procurements carried out in 2012. [SCA report series 2013:9]

- *Municipal systems of choice – focusing on home-help services*

53. The Government has commissioned the SCA to survey and evaluate the competition conditions in the municipal systems of choice. Along with the interim report Kommunernas valfrihetssystem – så fungerar konkurrensen (2012:1) (The municipal system of choice – the state of competition), this report constitutes the final report of the assignment. [SCA report series 2013:1]

- *Freedom of choice within the Employment Service*

54. The SCA has conducted a preliminary study on the freedom of choice within the Employment Service. The report shows that the supervision of free choice systems and their suppliers need to be developed further. [SCA report series 2013:7]

- *Competition on equal terms in the municipal system of choice - A pilot study of three municipalities with free choice in home-help services*

55. The report highlights the competition conditions between external suppliers and the municipalities' own administration. Three municipalities have been examined more closely with regard to resource allocation. The SCA recommends and encourages transparency and clarity in financial accounting of all operations included in the system of choice. [SCA report series 2013:8]

4.1.2 *Official communications to the Government*

56. During the year SCA has submitted a communication to the government to ask for an expansion of its decision-making remit with regards to fees. This was in reference to violations of the cartel prohibition and abuse of a dominant position, for anti-competitive sales activities by public entities and for prohibited concentrations between undertakings. [Ref. no. 304/2013]

4.1.3 *Responses to official consultations*

57. By commenting on proposals contained in reports and other inquiries we can become involved in and influence the preparation and drafting of proposals and decisions at an early stage. The SCA has also participated in hearings and consultations arranged by the Swedish Energy Markets Inspectorate, the Ministry of Enterprise, Energy and Communications and the Ministry of Finance. The following is a selection of the responses to official consultations in the area of competition that we submitted in 2013.

4.1.3.1 The SCA recommends free choice in the pension system

58. In a statement to the Ministry of Finance, the SCA commented on the report *Vägval för premiepensionen* (Decision time for premium pensions). In order to maintain as much freedom of choice as possible for the individual, the SCA supports the alternative based on the current system. From a competition perspective, the new system should respect market conditions to the greatest extent possible, and the principles of product freedom and choice must essentially remain the same. [Ref. no. 358/2013]

4.1.3.2 Price change assessment and entry regulations for district heating

59. In statements with regard to district heating, the SCA writes that entry regulation may be warranted, and that the proposed price change assessment could be appropriate, provided that entry prices are not affected by the threat of an upcoming price regulation. Comments have been sent to the Ministry of Enterprise, Energy and Communications in response to the Swedish Energy Markets Inspectorate reports *Prisförändringsprövning och likabehandlingsprincipen för fjärrvärme* (Price change assessment and the principle of equal treatment in district heating) and *Reglerat tillträde till fjärrvärmenäten* (Regulated access to district heating networks). [Ref. no. 335/2013 and 336/2013]

4.1.3.3 Statement regarding liability for police supervision

60. In a statement to the Ministry of Justice, the SCA advises against the proposal to introduce compensation liability for police supervision. This proposal for event organisers would entail a competitive advantage for non-profit associations over limited companies. The SCA emphasises that the form of

association should not affect whether the event organiser becomes liable for police supervision. [Ref. no. 294/2013]

4.1.3.4 The SCA rejects electricity region proposal

61. In a response to an official consultation by the Ministry of Enterprise, Energy and Communications on the report *Analys av möjliga åtgärder för att minska prisområdesproblematiken i Sydsverige* (Analysis of possible measures to reduce pricing issues in southern Sweden), the SCA rejects the proposal of Svenska Kraftnät auctioning off hedging contracts for the southern electricity sector. The SCA is of the opinion that if Svenska Kraftnät was to take over certain functions on the financial electricity market, it could lead to an unclear division of roles and inhibit incentives for the market to find a long-term solution for these problems. [Ref. no. 43/2013]

4.1.3.5 Increased competitive neutrality is recommended within public service

62. The SCA has commented on the Public Service Committee report *Nya villkor för Public service* (New terms for Public Service) (SOU 2012:59), in preparation for the permit period starting in 2014. In response to an official consultation by the Ministry of Culture, the SCA stresses the importance of public service operations being regulated to promote development in the area of radio and television, without distorting competition. The Competition Authority also emphasised that the matter of public service ought to be subjected to an overall analysis to ensure clear, transparent and up-to-date regulations. [Ref. no. 607/2012]

4.1.3.6 Statement on the municipal responsibility for housing provision

63. The SCA is critical of subsidised housing construction. In response to an official consultation by the government: *Boverkets översyn av bostadsförsörjningslagen* (The Swedish National Board of Housing review of the Act on Municipal Responsibility for Housing Provision), the SCA has commented on the proposal to replace the above-mentioned act with a new act regulating the municipal responsibility for planning housing. The SCA is critical of the municipalities being given an opportunity to take advantage of the EU state aid rules. [Ref. no. 562/2012]

4.1.3.7 Statement on the investigation concerning more effective supervision of competition

64. The SCA has commented on the report *Effektivare konkurrenstillsyn* (More effective supervision of competition) (SOU 2013:16), emphasising that these proposals would have a positive impact on the national economy and the consumers. The SCA welcomes the chance to temporarily suspend a deadline when parties in investigations of concentrations between undertakings do not submit requested material. The statement also refers to the proposal to introduce a queuing system in the Swedish leniency programme and a legislative regulation of the possibility for an audit of digital material from site investigations at the SCA premises. [Ref. no. 200/2013]

4.1.3.8 Statement regarding EU proposal on electronic communication

65. The SCA has made a statement regarding the proposal by the European Commission for a new regulation on an internal European market for electronic communications. Objections to this proposal were in respect of the need for regulatory measures to promote the development of pan-European telecom actors, and the proposal for consideration of the global competitiveness of the EU when deciding whether to pre-regulate a market. [Ref. no. 593/2013]

4.1.3.9 Statement on strategy for sustainable procurement

66. In a statement regarding the report *Goda affärer – en strategi för hållbar offentlig upphandling* (Good business – strategy for sustainable public procurement) (SOU 2013:12), the SCA gives a positive review of the investigation proposal of allowing public procurement greater strategic importance as well as to integrate it into the government skills development. The SCA supports the proposal of having Statens Inköpscentral assisting authorities if needed in framework agreement suborders. The SCA also stresses the importance of promoting research. [Ref. no. 185/2013]

4.2 *Research*

67. The SCA has a special government appropriation to be used towards research in the areas of both competition and public procurement. The appropriation for 2013 was close to SEK 14 million (EUR 1.6 million). The research should result in an increased level of knowledge among our staff and stakeholders. In the first instance, we finance research within the fields of law and economics.

4.2.1 *The Pros and Cons series*

68. In order to disseminate and increase knowledge of current competition and procurement issues, the SCA organises an international research seminar every year, on the theme “The Pros and Cons”. Since the first seminar in 2002, researchers and experts have discussed pros and cons of interesting aspects of competition law. The theme of this year’s seminar was The Pros and Cons of Counterfactuals. Approximately a hundred researchers, academics, lawyers and representatives of competition authorities attended the conference.

4.2.2 *Research seminar*

69. The Swedish Workshop in Competition Research (SWCR) was held on 5 December. This is an annual workshop organised by the SCA Council for Research Issues. SWCR is held in connection to the Pros and Cons seminar, focusing on matters relating to competition law and procurement.

4.2.3 *Projects granted support in 2013*

70. Our most important task within the area of research is to fund and support research projects. Over the year we received 24 applications for research grants within the areas of competition and public procurement. The SCA granted funds for three new projects within competition research and one within public procurement research, amounting to nearly SEK 2.3 million combined. The SCA also paid out just over SEK 8.3 million to 14 on-going projects.

71. The following is an account of new research projects.

- Professor Fredrik Andersson at the School of Economics and Management at Lund University has been given a research grant for the project “Competition, public provision and organizations in health and elderly care”.
- Professor Frank Verboven at the Department of Economics of KU Leuven has been granted funding for the project “Evaluating Merger Simulation: Uncertainty, Economic Assumptions and Practical Implementation”.
- Professor Tore Nilsson from the Department of Economics at the University of Oslo has been given funding to organise the Nordic Conference in Industrial Organization in 2014.
- Tobias Indén, senior lecturer at the Faculty of Law at Umeå University has been granted funding to conduct a study focusing on procurement markets and land development.

4.2.4 *Commissioned research*

72. The SCA also commissions research projects when we notice a direct need for investigation or highlighting of certain aspects within the field of competition and procurement. Findings are generally published in a special report series for commissioned research. For each commission, we assign a reference group with the task of assuring the quality of the study. These reference groups consist of people with special expertise within the area in question. Our ambition is for the reports to be founded on a solid academic basis and for them to be written in such a way that the content can also be understood by non-specialists. A total of SEK 2.7 million was awarded to commissioned research within the field of competition and procurement.

73. The SCA published the following commissioned research reports in 2013:

- Market surveillance on the Nordic electricity market (Commissioned research 2013:4)
- State, market and regulation from a historical perspective. (Commissioned research 2013:3)
- Regulating the price of district heating – which lessons can be learned from economic theory and empiricism? (Commissioned research 2013:1)
- Retail pricing, vertical control and competition in the Swedish gasoline market. (Commissioned research 2013:5)

4.2.5 *Essay competition*

74. The SCA organise an annual essay competition to promote interest in competition and procurement issues among students. The SCA decided to hold two essay competitions in 2013.. The competition is open for all subjects relevant to the activities of the SCA. 21 submissions participated in the spring competition and 25 in the autumn. The essay writers were competing for SEK 75,000 and SEK 100,000. Eleven essays were awarded with prizes.

4.2.6 *Council for Research Issues*

75. The Council for Research Issues has been assigned to foster research in the areas of competition and procurement and to present the SCA with the results of developments, primarily within the fields of law and economics relevant to its activities. Members of the Council are appointed by the SCA and have a term of two years. The Council has convened three times this year. The agenda included general research questions, applications for research grants, proposals for commissioned research and the essay competition.

4.3 *Knowledge*

76. The SCA is to promote a competition-oriented approach and provide appropriate information for companies and other concerned parties regarding important decisions, our implementation of the rules and the content of these rules. In promoting a uniform application of the national public procurement rules, the SCA has prioritised information that encourages and makes it easier for SMEs to participate in public procurements as well as information on procurement fines. Over the course of the year, we have conducted a number of different initiatives to disseminate knowledge about competition and procurement issues to various stakeholders.

4.3.1 *Raised awareness about bid-rigging cartels*

77. During 2013 we have continued to provide information on how cartels can come about, how they can be discovered and how the SCA can be tipped off. We have held a number of lectures on the subject.

We have also increased our collaboration with the Swedish Tax Agency and the National Anti-Corruption Unit, in order to obtain tip-offs regarding bidding cartels.

4.3.2 *Focus on counteracting unfair competition*

78. To tackle issues that lie outside the jurisdiction of the SCA, but which still affect competition, we often cooperate with other authorities such as the Swedish Tax Agency, the Economic Crime Authority, the Police and the National Anti-Corruption Unit. In November, the Swedish Tax Agency organised a meeting on the theme “Competition on fair terms” with the subtitle “White-market jobs – a condition of welfare and competition on equal terms” The discussion which took place was intended to make citizens and companies aware of the problems with black-market labour and how it affects competition.

4.3.3 *Interactive guide*

79. The SCA has developed an interactive guide with which companies planning to cooperate can easily test whether it is possible to do so without violating any competition regulations. The guide is available at the SCA website, www.konkurrensverket.se/vagledning. The SCA has previously produced a film “Be first – a film about leniency”, which was primarily directed towards companies and business leaders.

4.3.4 *Almedalen and the Quality Fair*

80. During this year’s Almedalen Week in Gotland, the SCA organised three seminars for the first time. The overall themes of these seminars, which were held between 3–4 July, were welfare and competition. The panel discussions were focused on the following topics

- Bidding cartels, black-market labour and corruption – on unfair competition in public procurements.
- The public sector must not incapacitate private companies – on how public actors should conduct sales appropriately.
- Free choice in rural areas – how does it work?

81. The SCA has also organised three mini-seminars at the Quality Fair in Göteborg this year. Topics on the agenda were procurement fines, sales activities by public entities and competition to promote a more effective construction process.

4.3.5 *Electronic newspaper Competition/Procurement*

82. Our electronic newsletter is issued once a month and provides our 1,800 subscribers with current information about what is happening in the area of competition and procurement.

4.3.6 *Konkurrensverket.se*

83. The website, with its approximately half a million visitors per year, is the SCA’s primary channel for external information. The website also contains an online quiz, where anyone who is interested can test their knowledge of competition and procurement.

4.3.7 *Social media*

84. The presence of the SCA in social media is a complement to the information and communication channels available via the website. Among other tools, we have been using Twitter in our external

communication. Twitter has been a supplementary channel to communicate news, make addresses, advertise available positions, and generate attention to divert traffic to the other communication channels of the SCA. The SCA has also uploaded video clips and films from Competition Authority events on YouTube.

4.3.8 *Ungkonsument.se*

85. The SCA has continued the collaboration with the Swedish Consumer Agency on our joint website *ungkonsument.se*. Over the year, the website has been evaluated and developed. To reach young people and spread awareness of how to become an active and conscious consumer, we also have a mobile application developed for Facebook.

4.3.9 *Op-ed articles and addresses*

86. Competition issues have been relevant in many different contexts throughout 2013. The SCA's staff members have participated in debates on competition, public sales activities, unfair competition in public procurement, but also relating to sporting events. The SCA has also participated actively in the public procurement debate and presentations have been given to decision makers as well as government, municipal and county council purchasers. Trade associations, universities and other institutions are welcome to engage our staff as speakers. Op-ed articles and addresses have been published on the website.

4.3.10 *Information meetings*

87. During the year, the SCA has participated in a number of seminars, conferences and meetings with procurers and suppliers around the country. The aim has been to provide information on legislation and our supervisory task. In October, the SCA hosted a network meeting for procurement lawyers. Lectures were held on the subjects of unhealthy competition in public procurement, appeals in public procurements as well as implementation of the new public procurement directives of the EU.

4.4 *International work*

4.4.1 *Competition*

4.4.1.1 ECN

88. Within the European Competition Network (ECN), the SCA has a close cooperation with the European Commission and the competition authorities of the other member states to enforce articles 101 and 102 (anti-competitive cooperation and abuse of a dominant position respectively) of the Treaty on the Functioning of the European Union (TFEU).

89. The Commission and competition authorities in the member states reported 94 new cases in the network in 2013. In addition to this, the SCA receives information about tip-offs and complaints that have been sent to the Commission. In 2013, 30 such reports were made.

90. The parties are given an opportunity to orally present opinions on the Commission's draft proposals at a hearing before the Commission makes a decision. The competition authorities of the member states are consulted about the proposed decisions through meetings of the advisory committees. The SCA has participated in 20 such meetings this year. National competition authorities are also obligated to consult the Commission before making decisions pursuant to Articles 101 and 102 of TFEU, but no such consultation was needed by the SCA in 2013.

91. Collaboration within ECN also takes place through the exchange of information between public authorities and in a number of working groups focusing on different issues. The SCA has participated in approximately 27 working group meetings over the year. The ECN representatives have also participated in drafting recommendations on investigative and decision-making processes at the member state competition authorities. The aim of these recommendations is to facilitate the exchange of information and to increase harmonisation between the competition authorities.

4.4.1.2 Investigations for other public authorities

92. The SCA assists the European Commission and its sister organisations within the EU with on-site investigations and obtaining information from companies in Sweden. Over the year, the SCA has assisted a sister organisation by ordering a Swedish company to submit written information. The SCA has also received assistance from a sister organisation in carrying out an on-site investigation and in obtaining information from companies outside of Sweden.

4.4.1.3 Nordic cooperation

93. The Nordic competition authorities have liaised closely for many years now. Our 54th meeting was held in Nuuk, Greenland, where discussion topics included consortium cooperation, construction operations and oligopolies in smaller economies. Several working groups with participants from the Nordic countries have met over the year, including the Cartel Group and the Chief Lawyer and Chief Economist Group. The Nordic cartel network consists of representatives from the different authorities who work with cartel investigations. The presidency is rotating and the participants meet once per year to discuss current matters and methodology developments. The SCA hosted the meeting in June. In addition to these annual meetings, there are regular telephone conferences for updates on each respective operation.

94. The jointly published Nordic report called A Vision for Competition – Competition Policy towards 2020 [ref. no. 193/2011] includes a comparison of the different competition policies, legislations and enforcement of regulations in the Nordic countries as well as an analysis of what role the Nordic competition authorities could play in achieving the goal of sustainable economic growth in the future.

4.4.1.4 OECD

95. The Competition Committee of the Organisation for Economic Co-operation and Development (OECD) holds meetings three times a year, which we always attend. The topics for round table discussion in 2013 included e.g. the definition of the term 'transaction' in acquisitions, effective international collaboration between competition authorities, proactive methods in cartel investigations, the railway industry and vertical limitations in online sales. The Director General of the SCA has been a member of the steering group since 2010, which prepares the work of the Competition Committee.

4.4.1.5 ICN

96. Competition authorities from all around the world cooperate within the International Competition Network (ICN). The SCA actively participates in all of the ICN working groups. Over the year, twelve external advisors have been linked to the five work groups: agency effectiveness, cartels, mergers, advocacy and unilateral conduct.

97. Together with the competition authorities Office of Fair Trading (UK) and Rekabet (Turkey), the SCA has continued to lead the work within the group focusing on unilateral conduct. In September the SCA organised an international seminar in Stockholm on the theme of exclusive agreements. The analytical framework of exclusive agreements, damage theory and sanctions were discussed.

4.4.1.6 Other cooperation

98. Between the years 2011–2013, the SCA has participated in a project financed by Sida, the purpose of which was to establish a competition authority and enforcement of new competition rules in Georgia. The project period ended at the end of December.

99. Over the year, we have had visits from delegations from Bosnia-Herzegovina, Indonesia, South Africa, Romania, Russia and Hungary. In addition, several SCA co-workers have been invited to speak at conferences by various organisations, competition and procurement authorities, in places like Brazil, Bulgaria, India, Serbia, South Africa, the Czech Republic and Hungary.

4.4.2 *Public Procurement*

4.4.2.1 Advisory Committee on Public Procurement

100. International cooperation relating to procurement issues largely takes place within the framework of the European Commission's advisory committee and working groups linked to it, in which members of our staff participate. The respective working groups deal with matters relating to economics and statistics, and electronic procurement.

4.4.2.2 EU statistics

101. In accordance with the Procurement Directives, Sweden must submit annual statistics on public procurement to the European Commission. The statistics that the SCA has submitted to the Commission were compiled by Statistics Sweden. Information about thresholds is obtained from Tenders Electronic Daily, an EU database. The information about thresholds is obtained through questionnaires to government authorities and other bodies. [Ref. no. 33/2013]

4.4.2.3 Public Procurement Network

102. The Public Procurement Network (PPN) is a network involving representatives from European agencies that work specifically with public procurement. The network aims to improve the application of procurement regulations and to promote public procurement across borders. In 2013, the presidency of the network has been shared by Lithuania and Ireland.

4.4.2.4 Nordic cooperation

103. Representatives of the Nordic competition authorities and their associated ministries meet every year to exchange information and discuss current issues relating to procurement law. In 2013, the meeting was held in Oslo, and the agenda included topics such as the implementation of new Procurement Directives, environmental and social consideration, and unhealthy competition in public procurement.

5. Resources of the SCA

5.1 Resources overall

5.1.1 Annual budget

104. 2012: SEK 132.8 million, or 15.3 million EURO (average exchange rate for 2012);

105. 2013: SEK 134.3 million, or 15.5 million EURO (average exchange rate for 2013).²

5.1.2 Number of employees

106. In total, there was 144 staff working at the SCA during 2013. Out of these, 114 work on competition enforcement and more specifically 99 as non-administrative staff. Among the non-administrative competition staff, there are 54 lawyers, 42 economists and 3 with other type of functions.

5.2 Human resources (person years) applied to:

Enforcement against anti-competitive practices and merger review:	114 (no. of employees)
Advocacy efforts; integrated into the work of the enforcement of competition departments	Approximately 70% of time refers to law enforcement
Public procurement:	21

5.3 Period covered by the above information

2013

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

6.1 Annual Report for 2013

107. The Annual Report for 2013 is available at the Authority's website.³

6.2 Competition in Sweden 2013⁴

108. The SCA was commissioned by the government to present a current account of competition in Sweden and to present possible measures to promote competition. The report is an account focusing on a selection of markets: construction, fuel sales and adult dental care. (SCA report series 2013:10)

² The figures represent the budget allocation to the Swedish Competition Authority as stipulated in the Government Appropriation Directive for 2012 as well as 2013. In the past, the resources indicated have included activities covered by project-specific funding and other revenues which varies from year to year.

³ Available at: http://www.konkurrensverket.se/upload/Filer/ENG/Publications/annual_report_2013.pdf

⁴ Available at: http://www.konkurrensverket.se/upload/Filer/Trycksaker/Rapporter/rapport_2013-10.pdf

6.3 *Facts and figures on public procurement*⁵

109. With the aim of contributing to a discussion and debate on public procurement, the report presents facts and figures from procurements carried out in 2012. (SCA report series 2013:9)

6.4 *Competition on equal terms in the municipal system of choice - A pilot study of three municipalities with free choice in home-help services*⁶

110. The report highlights the competition conditions between external suppliers and the municipalities' own administration. (SCA report series 2013:8)

6.5 *Freedom of choice within the Employment Service*⁷

111. The SCA has conducted a preliminary study on the freedom of choice within the Employment Service. (SCA report series 2013:7)

6.6 *Unfair competition in public procurement*⁸

112. The SCA has looked at problems in the implementation of the procurement rules in cases where suppliers use various forms of illegal actions as a means of competition. (SCA report series 2013:6)

6.7 *Appeals in public procurement – facts and figures*⁹

113. This report gives an account of the appeals regulations and the available statistics on procurements where appeals have been lodged. (SCA report series 2013:5)

6.8 *Competition in the financial service market – deposits, mortgages and funds*¹⁰

114. The SCA has investigated the market and competition conditions for some of the most important financial services for households; deposits, mortgages and funds. (SCA report series 2013:4)

6.9 *Moving image – an analysis of the moving image market*¹¹

115. In collaboration with the Swedish Broadcasting Authority, the Competition Authority has mapped out the development on the moving image market over the last few years. (SCA report series 2013:2)

⁵ Available at: http://www.konkurrensverket.se/upload/Filer/Trycksaker/Rapporter/rapport_2013-9.pdf

⁶ Available at: http://www.konkurrensverket.se/upload/Filer/Trycksaker/Rapporter/rapport_2013-8.pdf

⁷ Available at: http://www.konkurrensverket.se/upload/Filer/Trycksaker/Rapporter/rapport_2013-7.pdf

⁸ Available at: http://www.konkurrensverket.se/upload/Filer/Trycksaker/Rapporter/rapport_2013-6.pdf

⁹ Available at: http://www.konkurrensverket.se/upload/Filer/Trycksaker/Rapporter/rapport_2013-5.pdf

¹⁰ Available at: http://www.konkurrensverket.se/upload/Filer/Trycksaker/Rapporter/rapport_2013-4.pdf

¹¹ Available at: http://www.konkurrensverket.se/upload/Filer/Trycksaker/Rapporter/rapport_2013-2.pdf

6.10 *Municipal systems of choice – focusing on home-help services*¹²

116. The report constitutes the final report of a Government assignment to survey and evaluate the competition conditions in the municipal systems of choice. (SCA report series 2013:1)

¹² Available at: http://www.konkurrensverket.se/upload/Filer/Trycksaker/Rapporter/rapport_2013-1.pdf