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ANNUAL REPORT ON COMPETITION POLICY DEVELOPMENTS IN SWEDEN

-- 2014 --

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Executive summary

1. The organising and developing of the procurement support function at the Swedish Competition Authority (SCA) has hallmarked 2014, among other things. Building on foundations laid by the Swedish Legal, Financial and Administrative Services Agency, the Swedish Environmental Management Council (SEMCO) and VINNOVA, the SCA created an organization that stands ready to help the myriad stakeholders involved in the procurement process by offering a consolidated national support function to address these important matters. The work that is completed by 1 September 2015 will serve as a solid foundation for its continued development when a new independent agency is created from the procurement support function in accordance with a government decision.

2. Moreover in the field of procurement support, the SCA has during 2014, due to an increasing interest from public authorities to use public procurement as a strategic tool to ensure a sustainable development, put effort in capitalising on and developing the SEMCO's accumulated knowledge about the field to enable better support imposing these requirements in public procurements.

3. Considerable progress has been made in terms of law enforcement and supervision. Several cases have made their way to the court in the fields of law enforcement and supervision. One such case was the merger of Sweden's two largest estate agents under a single owner, Swedbank. The SCA blocked the transaction in court because of the opinion that the transaction severely would undermine conditions for estate agents, as well as the buyers and sellers of houses and apartments. On 16 December, the Stockholm District Court ruled in favour of the SCA. In the removal sector, the SCA filed a summons application against three removal companies seeking administrative fines of SEK 42 million for illegal collusion. In another case, two tyre companies were convicted of illegal bidding collusion and ordered to pay SEK 2.5 million in administrative fines. The decision was not appealed.

4. Since 2010, the SCA has the mandate to impose administrative fines on contracting authorities and departments, including county councils and government authorities that have illegally awarded direct contracts. During 2014, the Supreme Administrative Court sided with the request of the SCA against Falu Municipality ordering the Municipality to pay a fine of SEK 7 million for illegal award of direct contract. The SCA also brought action against Haninge Bostäder requesting a fine of SEK 10 million establishing that municipal companies are not allowed to buy a company with assets in the aim of circumventing the procurement rules. The defendant appealed the Administrative Court's decision that sided with the SCA's opinion.

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

5. On 1 August 2014, amendments to the Swedish Competition Act (2008:579) entered into force, which introduce new provisions on a marker system in the Swedish leniency programme. At the same time, provisions on stopping the clock in merger reviews were introduced.

2. Enforcement of competition laws and policies

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

2.1.1 *Summary of activities of the SCA*

6. **Potential violation of the Competition Act.** In November 2014, the SCA presented its preliminary analysis of the proposed amortisation recommendations on housing loans. The SCA's analysis indicated that the recommendation could constitute a violation of the Competition Act. In April 2015, the Finansinspektionen decided not to progress with the amortisation requirement.

7. **Anti-competitive cooperation and abuse of dominant position.** During 2014, the SCA made 130 decisions pursuant to Chapter 2, Articles 1 and 7 of the Swedish Competition Act and Articles 101 and 102 of the 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.

8. **Mergers.** The SCA adopted 65 decisions relating to concentrations between undertakings. Two cases were subject to special investigation. In one case, the parties decided to cancel the transaction after brought action of the SCA, and in the other, the SCA decided not to pursue its investigation further.

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

10. **Tip-offs and complaints.** The SCA received around 1,700 tip-offs and complaints from companies, customers and consumers in 2014. The rather high increase from 2013 (1,100) is explained by the organization of the procurement support function. The influxes of enquiries predominantly pertain to procurement-related queries, most commonly concerning direct awards without a prior contract notice.

2.1.2 *Significant decisions and rulings of the courts*

11. **Anti-competitive collusion Däckia AB and Euromaster AB.** In January 2014, the Stockholm District Court upheld the SCA's petition and ordered Däckia AB to pay an administrative fine of SEK 1.283.000 and Euromaster AB to pay SEK 1.196.000 for anti-competitive collusion in conjunction with public procurement processes. The decision was not appealed. [Ref. no.: 605/2010]

12. **The SCA blocked Swedbank Franchise's acquisition of Svensk Fastighetsförmedling.** In June 2014, the SCA filed a summons application with the Stockholm District Court in which the SCA sought to prohibit Swedbank Franchise's acquisition of Svensk Fastighetsförmedling. Under the terms of the transaction, Swedbank Franchise AB, which is owned by Swedbank, would gain control of the country's two largest estate agent franchises. The Stockholm District Court judgement in 16 December sided with the SCA. The decision was appealed to the Market Court, however, the parties decided to withdraw their notification and to cancel the concentration in March 2015. [Ref. no.: 426/2014]

13. **Competition in the market for online hotel bookings.** In 2014, the SCA continued its investigation into whether Booking.com Sverige AB, by stipulating terms and conditions known as price parity in their contracts with Swedish hotels, is restricting competition in the market for online hotel bookings. In April 2015, Booking.com Sverige AB committed not to make any further use of the price parity mechanism and was ordered to pay a fine of SEK 5 million. The case has international character involving a Dutch company Booking.com B. V., this company was ordered to pay a fine of SEK 30 million. [Ref no.: 595/2013, 596/2013]

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

2.1.3.1 *Anti-competitive cooperation*

14. **Data communications connections in Gothenburg.** The SCA has filed a summons application with the Stockholm District Court against TeliaSonera Sverige and Göteborg Energi GothNet demanding nearly SEK 35 million in administrative fines for forming a bidding cartel ahead of a procurement process held by the City of Gothenburg in 2009. [Ref. no.: 848/2014]

15. **Suspicion of a non-competitive alliance in the removal sector .** The SCA filed a summons application with the Stockholm District Court against three companies in the removal sector for forming a

non-competitive alliance. The SCA is seeking administrative fines of SEK 42 million from the companies for illegal collusion. [Ref. no.: 511/2014]

16. *Suspicion of anti-competitive cooperation in the environmental and waste sector*. Based on suspicions of anti-competitive cooperation, the SCA performed unannounced inspections at companies in the environmental and waste sector. The raids constituted part of a search for evidence that could help chart and underpin suspicions of potentially anti-competitive practices. [Ref. no.: 184/2014]

17. *Suspicion of anti-competitive collusion in the waste sector*. The SCA has performed unannounced inspections at two municipal companies that are suspected of having violated the competition rules. The suspected violations manifested themselves in the companies coordinating their bids in public procurement processes pertaining to the incineration of household waste, and refusing to accept the waste for incineration from the company that won the procurement contract. The SCA will continue to investigate this matter in 2015. [Ref no.: 598/2014]

2.1.3.1 *Abuse of a dominant position*

18. *Swedish Match North Europe AB*. The SCA filed a summons with the Stockholm District Court against Swedish Match North Europe AB requesting that the company pays nearly SEK 38 million in administrative fines for abusing its dominant position. From June 2012 to April 2013, Swedish Match North Europe AB implemented a mandatory system for shelf labelling in snus refrigerators, which limited competitors' ability to communicate their brands and prices. [Ref. no. 815/2014]

19. *Abuse of dominant position – exclusion of competitor*. During 2014, the SCA continued to investigate the alleged abuse of a dominant position in the market for securities trading services in the Nordic region. A major company that provides securities trading services is suspected of preventing a minor competitor from placing equipment close to the customers' trading equipment by putting pressure on a data centre supplier. This may have raised the entry barriers and reduced competition in relevant markets. [Ref no.: 629/2010]

2.1.3.2 *Anti-competitive sales activities by public entities*

20. *Stockholm District Court - Borås Municipality's Service Office*. In 2010, the SCA brought an action against the Borås Municipality Service Office to prohibit the municipality from selling services to anyone other than the municipality itself. The District Court judgement in 31 March sided with the SCA and sanctioned the municipality to pay SEK 3 million for non-compliance. The decision was appealed to the Market Court whose judgement will be announced in October 2015. [Ref. no.: 45/2012]

21. *AB Strömstads Badanstalt*. The Stockholm District Court did not uphold the claim brought by the SCA to prohibit the Municipality of Strömstad from operating a gym and spa facility in direct competition with private operators in the near vicinity. A fine of SEK 2 million was also requested. The SCA appealed the matter to the Market Court and their judgement will be announced 19 May 2015. [Ref. no. 628/2012]

22. *Helsingborg Municipality – InPort Intelligent Port systems AB*. The SCA investigated whether InPort's sales activities concerning logistics solutions for port operations could have constituted a violation of the Competition Act's rules governing anti-competitive public sales activities. After the municipal company the Port of Helsingborg sold all of its shares in its InPort subsidiary, the SCA concluded its investigation and closed the case. [Ref. no.: 535/2012]

23. *Municipal association Tolkförmedling Väst*. The SCA is investigating whether Tolkförmedling Väst (a provider of translation and interpreting services) sales of intermediation and translation services to

parties other than the association's members prevented competition from private entities by leveraging its position as a public entity. [Ref. no.: 363/2013]

24. *Svenska spel.* During the year, the SCA investigated whether AB Svenska Spels (state-owned company operating in the regulated gambling market in Sweden) new sports bar venture at the Casino Cosmopol casinos distorts the competition in the market for companies that show sports games in public in their respective locations. The SCA dismissed the case because of findings during the preliminary investigation and closed the case. [Ref. no.: 391/2014]

2.2 *Mergers and acquisitions*

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

25. The following table shows the number of new cases registered during 2014 under the Competition Act and the number of decisions during the same period. At the end of 2014, eight cases were still pending.

Year	Registered new cases		Decisions	
	2013	2014	2013	2014
Mergers	48	67	45	65

2.2.2 *Summary of significant cases*

26. *Approval for acquisition in the telecommunications market.* TeliaSonera notified its acquisition of Zitius, Quadacom Networks, Quadacom Services, QMarket Riksnät. The SCA was unable to conclude that TeliaSonera, which also acts as a service provider in open network, would, following the acquisition, be able to exclude other service providers or make it less profitable for these providers to operate in the networks for which TeliaSonera is the communications operator. The SCA deemed that that merger would not significantly impede the existence or emergence of effective competition and decided not to take any action. [Ref no.: 89/2014]

27. *The daily newspaper Sydsvenska Dagbladet's acquisition of Helsingborgs Dagblad.* The SCA investigated Sydsvenska Dagbladet's acquisition of Helsingborgs Dagblad. Both of the newspapers are primarily active in the publication and distribution of local morning papers, as well as the sale of advertising space. The SCA deemed it unlikely that the merger would impart such market strength as to risk resulting in the exclusion of a competitive supply and, over time, having a negative impact on advertising clients and ultimately consumers. The SCA did not take any action. [Ref no.: 388/2014]

28. *Martin & Servera's acquisition of Galatea Spirits.* Martin & Servera, which is a full-range wholesaler to hotels, restaurants and catering services, acquired Galatea Spirits, which owns a number of brands that import and distribute beer and other alcoholic beverages. The SCA concluded that there are several options available for suppliers of alcoholic beverages in marketing their products to these customers and that the parties' combined market share was limited. No action was taken on the merger. [Ref no.: 618/2014]

2.2.3 *Follow-up decisions*

29. *Our enforcement efforts regarding public sales activities yielded positive effects.* The Stockholm District Court prohibited the municipally owned company Skelleftebuss AB from offering commissioned bus services to any client other than Skellefteå Municipality. According to the SCA's follow-up of the judgment, the prohibition has yielded positive effects in the market. [Ref. no.: 219/2014]

2.3 *Stakeholders' views*

30. For the 22nd consecutive year, the SCA conducted a stakeholder survey specifically addressing 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, corporate lawyers and the group comprising public authorities and agencies.

31. On an aggregated level, 66 per cent of the various stakeholder groups responded that they have a high level of confidence in the SCA which is an increase with 4 per cent from previous year. The share with highest level of confidence is found among authorities and agencies (76 per cent) and lowest among SMEs (55 per cent).

32. All stakeholder groups remain highly favourable to competition, according to 97 per cent of those surveyed. The percentage of favourable responses to that the SCA proactively counteracts serious violations of the competition rules have increased from the stakeholder groups of trade associations, authorities and agencies. For other groups, the results remained unchanged compared with 2013.

33. The general attitude towards the competition legislation is quite similar among the various interest groups. The proportion of positive respondents ranges from 44 per cent (SMEs) to 69 per cent (trade associations). In terms of the stakeholders' views of how the SCA communicates its prioritisation strategy for its cases, 73 per cent say that they think it was favourable, which is an increase on last year.

34. 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 by the SCA. Among those who have assessed the SCA's case management of concentrations between undertakings 75 per cent give a positive overall opinion. The result is a decline by 5 per cent from previous year. The greatest difference is found in the assessment of staff expertise and in the assessment of the speed and ease with which they supplied the cases.

3. **Enforcement of public procurement laws**

35. In 2014, the supervisory activities have continuously been prioritised with persistent 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 the SCA submitted 15 summons applications seeking administrative fines on our own initiative as well as five applications for mandatory administrative fines to the Administrative Court. In addition, the SCA processed and concluded 50 different cases under the Public Procurement Act. The SCA also enforced 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*

36. **Falu Municipality.** The Supreme Administrative Court sided with the request of the SCA against Falu Municipality. In December 2010, the Municipality signed a contract with PEAB Sverige AB for maintenance of the municipalities' roads and pavements. The Municipality was found guilty of illegal direct award of contract and ordered to pay an administrative fine of SEK 8 million. This is the largest administrative fine to date in a judgement that has gained legal effect. [Ref. no.: 739/2011]

37. **Akademiska Hus.** The state-owned company, Akademiska Hus (missioned to own, develop and manage property with a focus on educational and research activities), must comply with the Public Procurement Act when purchasing goods and services. The Umeå Administrative Court orders the

company to pay an administrative fine of SEK 3 for the illegal direct award of contracts. [Ref. no.: 476/2012]

3.1.2 Description of significant cases

38. **Haninge Bostäder AB.** The Administrative Court granted the SCA requested against Haninge Bostäder to pay SEK 10 million establishing that municipal companies are not allowed to buy a company with assets in the aim of circumventing the procurement rules. The defendant appealed the decision leaving the case pending in court. [Ref. no.: 461/2013]

39. **Malmö Municipality.** The Administrative Court of Appeal sided with the SCA against Malmö Municipality. The Municipality is ordered to pay SEK 325,000 in fines for repeated illegal awarding of direct contracts of lease and building and construction products at a value of SEK 3.6 million. [Ref. no.: 135/2014]

40. **Stockholm County Council.** The Stockholm Administrative Court sided with the SCA action against Stockholm County Council which is ordered to pay SEK 3 million in administrative fines for illegally award of direct contract to a supplier of printing material and services. [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 8th consecutive year in a row the SCA conducted a stakeholder survey addressing 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 comprising public authorities and agencies.

43. Within all these groups, 56 per cent responded that they believe that the SCA is combating serious violations of the procurement legislation. On average, 62 per cent agree with the view that the SCA decisions and actions taken serve as a form of guidance for companies and authorities in procurement matters.

44. In terms of views on the procurement rules, the share that holds a negative view (28 per cent) is approximately the same as those who holds a positive view (27 per cent) on the rules. The positive share was unchanged or had declined among each group of stakeholders.

45. In a weighted average of the various stakeholder groups, 66 per cent responded that they have a high level of confidence in the SCA, which is an increase of 4 per cent. The share with a highest level of confidence is found among authorities and agencies (76 per cent) and the lowest is found among SMEs (55 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 16-20 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. The SCA describe our proposals for improvement measures in reports, responses to official consultations and official communications to the government. The SCA also provide comments and opinions for other public authorities that would like to know the SCA's views on a particular investigation or changes to the regulatory framework.

4.1.1 *Reports*

4.1.1.1 *Competition*

47. **Charting the sales activities of municipal companies.** The aim of the report was to identify, quantify and visualise the areas of conflicts between private and public enterprises. Selected municipal companies were asked to describe what they sold and to whom. The companies also answered whether they faced competition from private companies, what pricing strategies they applied for their sales and how often they had submitted bids in public procurement processes. The SCA concluded that municipal companies' increases in number, sales are not declining and that the companies feel intense competition from private companies. The SCA requests more empirical research on the effects of how municipal sales activities are conducted in competitive markets. [SCA report series 2014:3]

48. **Market entry and competition among healthcare clinics – on quality-based competition and economic terms and conditions.** In this report, the SCA concludes that there is potential for quality-based competition throughout much of the country. In areas where access is limited, there is less opportunity for choosing healthcare clinic. The design of the compensation system and breadth of the duties play a significant role in the presence and results of healthcare clinics within the County Councils' various care choice systems in the field of primary care. [SCA report series 2014:2]

4.1.1.2 *Public Procurement*

49. **Facts and figures on public procurement.** With the aim of contributing to a discussion and debate on public procurement, the report presents facts and figures from procurements carried out in 2013. [SCA report series 2014:1]

4.1.2 *Responses to official consultations*

50. By commenting on proposals contained in reports and other inquiries the SCA can become involved in and influence the preparation and drafting of proposals and decisions at an early stage. The following is a selection of the responses to official consultations in the area of competition that the SCA submitted in 2014.

51. **Prevent unnecessary entry barriers in financial markets.** The most important official consultations made by the SCA in 2014 were several responses in the field of financial markets. In summary, these responses reflect the SCA's aim to prevent unnecessary entry barriers from being imposed

in conjunction with a necessary tightening of the regulation of the financial markets. [Ref. no.: 337/2014 and 620/2014]

52. **Statement on the electric utility sectors.** Several of the SCA's official consultations concerned submitting opinions on the regulation of electric utilities. [Ref. no.: 87/2014 and 243/2014]

53. **Influence of corporate framework on competition.** During the year, the SCA backed the Planning and Building Act appeal investigation's proposal that aims to expedite processing times in the planning and building process. The aim of this proposal is to create conditions that are pro-competitive within the corporate framework. [Ref. no.: 260/2014]

54. **Statement on the Neutral Corporate Tax.** In a consultation concerning the Swedish Committee on Corporate Taxation's final report, entitled Neutral Corporate Tax, the SCA was favourable to the attempt to reduce the tax difference between shareholder's equity and loans raised. [Ref. no.: 451/2014]

55. **Statement on the new Patent and Market Court.** The SCA adopted a positive position on the proposal for a new Patent and Market Court. Under the proposal, cases of a competition law nature would in the first and second instance be heard in special courts, which would be part of the Stockholm District Court and the Svea Court of Appeal, respectively. [Ref. no.: 21/2014]

56. **The SCA rejects the Public Sector Information's proposal.** The Public Sector Information investigation's proposed the SCA to be tasked with ensuring compliance with the rules governing the re-use of public administration documents. [Ref. no.: 200/2014]

4.2 *Research*

57. The SCA has a special government appropriation to be used towards research in the areas of both competition and public procurement. In 2014, that appropriation totalled nearly SEK 14 million. The research should result in an increased level of knowledge among our staff and stakeholders. First and foremost, we finance research in the legal and economic fields.

4.2.1 *The Pros and Cons series*

58. 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 compelling questions in the field of competition. The theme of this year's seminar was "The Pros and Cons of Antitrust in Two-Sided Markets". Approximately a hundred researchers, academics, lawyers and representatives of competition authorities attended the conference.

4.2.2 *Research seminar*

59. The Swedish Workshop in Competition Research (SWCR) was held on 27 November. It is an annual workshop organised by the SCA's Research Council. The SWCR is held in conjunction with the Pros and Cons conference and focuses on competition and procurement-related matters.

4.2.3 *Projects granted support in 2014*

60. The SCA's most important task in the field of research is to support research project. During the year, we received 38 applications requesting funding for research in the fields of competition and procurement. The SCA granted funding for seven new projects in the field of competition research and two

in procurement research at a total value of nearly SEK 3.4 million. The SCA also paid out slightly more than SEK 6.1 million to ten on-going projects.

61. Presented below are the new research projects on competition-related matters.

- Professor Lars Henriksson at the Centre for Business Law at Stockholm School of Economics has been given a research grant for the project “The Significance of Purchasing Power in the EU Competition Law”.
- Professor Lars Persson at the Research Institute of Industrial Economics at Stockholm School of Economics has been granted funding to accomplish the Swedish contribution “What do Legal Cartels Tell us About Illegal Ones” to the European Cartel Project.
- Assistant Professor Magnus Söderberg at Cerna at MINES Paris Tech has been given a research grant for the project ”Measuring the Effect of Cartels on Price”.
- Professor Mats Bergman at the School of Social Science at Södertörn University has been given a research grant for the project “Competitive Neutrality in Mixed Markets”.
- Erik Lakomaa, Affiliated Researcher at the Department of Marketing and Strategy at Stockholm School of Economics has been granted funding for the project “Market Deregulation as a Discovery Process: A Comparative Study of Monopolist Behaviour in Deregulatory Processes in Sweden and Finland”.

62. Presented below are the new research projects in procurement-related matters.

- Johan Nyström, Doctor of Technology at the Swedish National Road and Transport Research Institute has been given a research grant for the project “Imbalances Bidding in the Engineering Industry: A Cause of Insufficient Cost-efficiency?”.
- Professor Jan-Eric Nilsson at the Swedish National Road and Transport Research Institute has been granted funding for the project “Cost-efficiency in Tendered Contract”.

4.2.4 *Commissioned research*

63. The SCA also commissions research projects when we detect a direct need to investigate or highlight certain aspects in the fields of competition and procurement. The findings are published in a special report series for commissioned research. For each project, the SCA assigns a reference group with the task of assuring the quality of the study. The reference groups consist of individuals with special expertise in the relevant field. The SCA’s ambition is for the reports to be founded on solid academic grounds and to be written in a way that makes the content understandable by non-specialists. A total of SEK 4 million was awarded to commissioned research in the fields of competition and procurement.

64. The SCA published the following commissioned research reports on competition in 2014.

- Competition in the Estate Agency Market: How Does it Work and What Improvement Measures Could be Warranted? (Commissioned research 2014:3)
- New Markets and Gender Equality: Does Increased Competition Lead to Increased Gender Equality at the Workplace? (Commissioned research 2014:9)

- Competition and Discrimination in the Production Market: Theory and Empirical Evidence. (Commissioned research 2014:7)
- Cost Information From a Competition Law Perspective: Collection, Monitoring and Analysis – Proposal for a Tentative Framework. (Commissioned research 2014:2)
- The roles of Personality Traits on Price Cartel Characteristics. (Commissioned research 2014:6)
- Analysis of the Effects of Competition on the Retail Market for Fuel in Sweden. (Commissioned research 2014:1)

4.2.5 *Essay contest*

65. In an effort to increase interest in competition and procurement matters among students, the SCA holds an annual essay contest. The contest is open for all topics that are relevant to the SCA's activities and the annual submission deadline is 15 September. Sixteen essays were submitted in the contest of which six were awarded prizes and shared a total of SEK 100,000. Four of the essays pertained to public procurement and two to competition.

4.2.6 *Council for Research Issues*

66. The Council for Research Issues is tasked with simulating research in the fields of competition and procurement, and providing the SCA with findings from development, primarily in the economic and legal sciences, which may be of significance to our activities. The Council's members are appointed by the SCA and have a term of two years. This year, the Council convened three times. Its agenda includes research issues at large, applications for research grants, proposals for commissioned research projects and the essay contest.

4.3 *Knowledge*

67. 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*

68. During 2014, the SCA has continued to provide information on how cartels can come about, how they can be discovered and how the SCA can be tipped off. The SCA made several speeches on this theme; in addition, we published articles underscoring the importance of paying attention to the risks of bidding cartels in the public procurement process.

4.3.2 *Focus on counteracting unfair competition*

69. To tackle issues that lie outside the jurisdiction of the SCA, but which still affect competition, the SCA 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 seminar on the topic of public procurement and the potential for competition on fair terms.

4.3.3 *Interactive guide*

70. In 2014, the SCA has worked on updating two interactive guidance tools that are available on the SCA's website. One is geared toward companies that collaborate within the framework of a trade association, and the other toward small to medium-sized enterprises that want to partner in procurement processes. A completely new interactive guidance tool pertaining to anti-competitive public sales activities was also developed in 2014. These guidance tools will be re-launched and launched in the spring of 2015.

4.3.4 *Almedal Week*

71. During this year's Almedal Week on the island of Gotland, the SCA organised five seminars. The overarching theme of the seminars was procurement for welfare. The seminars, which were held on 3 July, were also broadcast live via our website and enjoyed a high attendance. The five seminars, listed below, were seen by a total of 1,255 individuals, either live on site or via the webcasts.

- Creating world-class purchasing organisations
- Vision meets reality when purchasing food
- Nontoxic preschools – utopia or potential reality?
- Crafting new Swedish procurement laws
- Purchasing welfare services – tuning taxpayer's money into welfare

4.3.5 *Electronic newspaper*

72. As of August 2014, the SCA issues a consolidated newsletter on both procurement and competition matters. The newsletter addresses both support and supervisory matters and is issued every other week. It replaces the newsletter that was previously published once a month. The newsletter provides more than 3,000 subscribers with up-to-date information.

4.3.6 *Konkurrensverket.se*

73. The SCA's primary channel for external communication is our website, konkurrensverket.se, which was thoroughly revamped during the autumn of 2014. The purpose of updating the website was to enhance accessibility for our target groups, and it compiles information about both enforcement and support functions in competition and procurement matters. 2014's statistics show that the website received nearly 900,000 hits.

4.3.7 *Social media*

74. All of the website's communications options are accompanied by the SCA's presence in social media. Twitter is a key resource in our external communications to certain target groups and is used to communicate news, presentations and career opportunities. The SCA has also uploaded video clips and films from our own events, for example on YouTube. The SCA has also begun developing clearer communications in motion graphics and initiated an effort to gain greater exposure in other social media, such as LinkedIn.

4.3.8 *Ungkonsument.se*

75. The SCA has continued the collaboration with the Swedish Consumer Agency on our joint website ungonsument.se and mobile application. The website and the application target young people with the aim to spread awareness of how to become an active and conscious consumer.

4.3.9 *Op-ed articles and addresses*

76. Competition issues have been relevant in many different contexts throughout 2014. The SCA's staff members have participated in debates on competition, public sales activities, unfair competition in public procurement, but also relating to sport 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*

77. During the year, the SCA's employees have held speeches and presentations in more than 170 different external settings, aimed at providing information on legislation and on our supervisory and support function. During the autumn of 2014, the SCA also launched a series of breakfast seminars that were also broadcasted live on our website. Topics such as the direct award of contracts, environmental and social considerations, new procurement legislation, the procurement of health and medical care, as well as the options available for early discussions between suppliers and contracting authorities were addressed. A total of 250 individuals participated.

4.4 *International work*

4.4.1 *Competition*

78. **European Competition Network (ECN).** Within the ECN, the SCA maintain a close working relationship with the European Commission and the competition authorities of the member states in the application of articles 101 and 102 (anti-competitive cooperation and abuse of dominant position) of the Treaty on the Functioning of the European Union (TFEU).

79. In 2014, the Commission and the competition authorities of the member states reported 125 new cases to the network. In addition, the SCA regularly receives information on complaints and new cases before the Commission, as well as the most important documentation in these cases. In 2014, the SCA received information on 28 new cases.

80. Before the European Commission announces its decision in a case, the parties are given the opportunity to present oral opinions on the draft of the decision under what is known as an oral hearing. The competition authorities of the member states are consulted on the Commission's decisions during meetings of the advisory committee. The SCA participated on 15 such occasions during the year. In addition, the SCA consulted the Advisory Committee at four occasions on certain legislative matters before the Commission.

81. Cooperation within ECN is also conducted through the exchange of information between the authorities and within the framework of working groups focusing on different matters. During the year, the SCA participated in 26 working group meetings. The ECN representatives also participated in drafting recommendations on the investigative and decision-making processes of the competition authorities of the member states. The recommendations also aim to facilitate the exchange of information and to increase harmonisation in the application of rules among the competition authorities in the EU.

82. **Investigations on behalf of other authorities.** The SCA helps the Commission and its sister authorities in the EU with on-site investigations and information gathering among companies in Sweden. In 2014, the SCA conducted one such on-site investigation and ordered one company to submit written information.

83. **Nordic cooperation.** The Nordic competition authorities have enjoyed close cooperation for many years. The 55th meeting was held in Copenhagen, Denmark, where we discussed, among other things, competition issues that arise when booking hotels online and the state of competition in the waste market, mainly when public organisations compete with private companies. Several working groups with members from the Nordic countries have met over the year, including the Chief Economist Group. The Nordic Cartel Network includes representatives who work on cartel investigations at the different authorities. The chairmanship rotates and the members meet once a year to discuss current cases and methodology developments. In addition to annual meetings, teleconferences are held regularly to update members on the activities of each authority.

84. **OECD.** The Organisation for Economic Co-operation and Development (OECD) Competition Committee held three meetings during the year, all of which the SCA attended. Topics discussed included quantitative methods for evaluating regulations and interventions by competition authorities from the perspective of competition law, conducting surveys on mergers that are not subject to mandatory notification, assessing how competition authorities can combat corruption and promote competition, and financing the expansion of broadband infrastructure. In September, the OECD adopted a new recommendation on international cooperation regarding competition law investigations and proceedings; an effort in which the SCA was involved. Since 2010, the Director General of the SCA has been a member of the steering group that prepares the Competition Committee's agenda.

85. **ICN.** Competition authorities around the world cooperate in the International Competition Network (ICN). The SCA actively participates in all of the network's working groups. During the year, eight external advisors were linked to four working groups: cartels, mergers, advocacy and unilateral conduct.

86. In partnership with the Competition and Markets Authority (UK) and Rekabet (Turkey), the SCA continued to lead the efforts of a group addressing unilateral conduct. In December, the SCA organised a webinar discussing the framework for analysing exclusionary abuse of dominant position.

4.4.2 *Public Procurement*

87. **Advisory Committee on Public Procurement.** The EU law cooperation on procurement matters is largely conducted within the framework of the European Commission's Advisory Committee under the Directorate-General for the Internal Market and Services. Working groups are associated with the Committee. The SCA's employees have participated in these efforts in all forums.

88. **EU Green Public Procurement Advisory Group (EU GPP AG).** The EU GPP AG, managed by the Directorate-General for the Environment, comprises representatives from EU member states. The national experts exchange knowledge and experiences on how each member state approaches green public procurement, policy development, monitoring, as well as, the prioritisation of criteria efforts in the EU. Representatives from the SCA participated in one meeting in September in Ghent, Belgium.

89. **G11 Group.** This informal working group consisting of 11 European countries advanced within the field of sustainable procurement is closely associated with the aforementioned EU GPP AG. Meetings are held in conjunction with the EU GPP AG. The SCA also participated in the G11 meeting in September in Ghent, Belgium.

90. **EU Statistics.** According to EU procurement directives, Sweden must annually submit public procurement statistics to the Commission. The obligation to compile information in the field of procurement is also required under the Agreement on Government Procurement within the framework of the WTO. In 2014, the SCA tasked Statistics Sweden with producing this information. The information on procurement exceeding the threshold value is based on information obtained from the EU Tenders

Electronic Daily database. Information that falls below the threshold values is obtained through questionnaires given to authorities and other bodies. [Ref. no.: 38/2014]

91. **Public Procurement Network.** The Public Procurement Network (PPN) is an informal network comprising representatives from European authorities and is specifically geared toward public procurement. Collaborative efforts within the network are aimed at strengthening and improving the application of procurement regulations and promoting cross-border public procurement, among other purposes. In 2014, the chairmanship began with Greece prior to being passed to Italy in July.

92. **Nordic cooperation.** Representatives for the Nordic ministries and for authorities that are active in the field of procurement meet once a year to share experiences and to discuss procurement law matters. In 2014, one meeting was held in Helsinki that addressed such matters as the implementation of the new procurement directives, the Swedish government's focus on procurement and support services and the potential for an intensified Nordic cooperation on environmental and social considerations in public procurement. As a result of this, the SCA organised a Nordic workshop in November at which participants discussed and shared experiences about lifecycle costs, social requirements and the monitoring of such requirements.

93. **OECD.** The SCA has been a proactive participant in the meetings of the Leading Practitioners of Public Procurement. As a continuation of the meeting in June 2014, the SCA has contributed to the development of the 2015 Recommendation on Public Procurement, shared its experiences through the compendium on green public procurement and provided written contribution in relation to the work on integrity and corruption in the public sector as well as indicators for measuring the efficiency and effectiveness of procurement systems. In November 2014, the OECD and the UN Environmental Program (UNEP) organised a webinar in which the SCA presented Sweden's efforts on environmentally compatible and sustainable procurement.

94. **Other cooperation.** The UN's 10 Year Framework Programme on Sustainable Public Procurement was adopted in Rio on 2012. One of the programmes addresses sustainable public procurement. The SCA participated in one meeting and in two teleconferences for the programme's Multi-stakeholder Advisory Committee.

95. During the year, we hosted delegations from Israel, Bosnia-Herzegovina, France, Thailand, Tanzania, Belarus, Serbia and Latvia. In addition, several of the SCA's employees held presentations at conferences at the invitation of various organisations and competition and procurement authorities across the globe, including Denmark, Belgium, the Faroe Island, Italy, Portugal, Taiwan and the US.

5. Resources of the SCA

5.1 Resources overall

5.1.1 Annual budget

- 2013: SEK 134.3 million, or EURO 15.5 million (average exchange rate for 2013).¹
- 2014: SEK 137.9 million, or EURO 14 million (average exchange rate for 2014).

¹ The figures represent the budget allocation to the SCA as stipulated in the Government Appropriation Directive for 2013 as well as 2014. In the past, the resources indicated have included activities covered by project-specific funding and other revenues which vary from year to year.

5.1.2 *Number of employees*

96. In December 2014, the SCA had 227 people employed, where 170 people were full-time workers (FTE). However, from 1 September 2015 the functions relating to guidance and support in public procurement will transfer to the new authority, bringing the remaining number of staff at the Competition Authority back to about 150 FTE's. Among the 118 non-administrative staff, there were 63 lawyers, 46 economist and 9 with other type of function.

5.2 *Human resources (person years) applied to:*

- Enforcement against anti-competitive practices and merger review: 118 (no. of employees)
- Advocacy efforts; integrated into the work of the enforcement of competition departments 70% of time registered refers to law enforcement.
- Public procurement: 65

5.3 *Period covered by the above information*

- 2014

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

- *Annual Report for 2014*². The Annual Report for 2014 is available at the Authority's website.
- *Facts and figures on public procurement*³. 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 2014:1)
- A study of sales activities by municipal undertakings in Sweden – In conflict with private undertakings⁴. The report highlights the areas of conflict between private and public entities in mixed markets. (SCA report series 2014:3)
- *Establishment and competition among health care centres* – Concerning quality-driven competition and economic conditions⁵. Since the adoption of the Act of Choice in the Public Sector (LOV) the amount of health care centres have increased by 20 per cent. The report aims to investigate effects and outcome due to this development. (SCA report series 2014:2).

² Available at: <http://www.konkurrensverket.se/en/publications-and-decisions/annual-report-2014/>

³ Available at: http://www.konkurrensverket.se/globalassets/publikationer/rapporter/rapport_2014-1.pdf

⁴ Available at: http://www.konkurrensverket.se/globalassets/publikationer/rapporter/rapport_2014-3.pdf

⁵ Available at: http://www.konkurrensverket.se/globalassets/publikationer/rapporter/rapport_2014-2.pdf