

Unclassified

DAF/COMP(2006)7/22



Organisation de Coopération et de Développement Economiques  
Organisation for Economic Co-operation and Development

11-May-2006

English text only

**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS  
COMPETITION COMMITTEE**

DAF/COMP(2006)7/22  
Unclassified

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

-- 2005 --

*This report is submitted by the Finnish Delegation to the Competition Committee FOR DISCUSSION at its forthcoming meeting to be held on 8-9 June 2006.*

JT03208757

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## Executive Summary

1. The Finnish Competition Authority (hereinafter the FCA) is responsible for competition law enforcement in Finland. It is an independent agency and administratively subordinate to the Ministry of Trade and Industry for budgetary reasons only. The FCA's objective is to protect sound and effective economic competition and to increase economic efficiency by promoting competition and abolishing competition restraints violating the Act on Competition Restrictions (480/1992, incl. amendment 318/2004, hereinafter the Competition Act) and the EC competition rules. The FCA investigates competition restraints both on its own initiative and on the basis of complaints received. Additionally, the FCA controls mergers and attends to the international tasks falling under its jurisdiction. The other main bodies responsible for competition law enforcement are the Market Court and the Supreme Administrative Court.

2. Director General Mr. Juhani Jokinen began his term of office on 1 January 2005. He succeeded the long-time Director General Mr Matti Purasjoki who retired from the FCA.

3. As a result of the reform of the EC competition rules, Finnish national legislation has been harmonised with the EC competition rules. The amended Act has been effective from 1 May 2004, i.e. since the Regulation 1/2003 implementing Articles 81 and 82 of the Treaty establishing the European Community (hereinafter the EC Treaty) and the Council Regulation (EC) No 139/2004 on the control of concentrations between undertakings (hereinafter the Merger Regulation) entered into force. 2005 was thus the first calendar year when the amendments were fully applied and the effects of these amendments were to be seen in their entirety. As a result of the amendments, Articles 81 and 82 of the EC Treaty are directly applicable in Finland.

4. In 2005, 469 new domestic matters involving competition restraints and merger control were brought before the FCA. The FCA resolved a total of 479 competition restraints issues and merger cases (incl. one initiative and 54 written opinions to other authorities in regulatory matters). The FCA also made four proposals to the Market Court. Three of the proposals concerned cartel and abuse of dominant cases and one concerned resale price maintenance. In 2005, the Market Court did not issue any decisions concerning competition restraints. The Supreme Administrative Court issued one decision on appeals made on the Market Court's decision.

5. The number of merger notifications clearly decreased as a result of the new provisions which became effective in the spring of 2004. There were only 55 new notifications made in 2005 compared to 90 in the previous year. Two conditional decisions were taken while other mergers and acquisitions were cleared as proposed. In addition, in one case the FCA made a referral request to the European Commission pursuant to Article 22 of the Merger Regulation.

6. As a result of the reform of the EC competition rules, cooperation with the European Commission and the competition authorities of the Member States has increased. In 2005, the ECN network was already established and the FCA forwarded eight cases to it. The FCA participated in the ECN working groups and sectoral subgroups. The FCA also participated, among others, in the work of the Competition Committee of the OECD and its working parties as well as in the Nordic cooperation.

7. The FCA and its activities are covered in English on the FCA's home pages at [www.kilpailuvirasto.fi/english](http://www.kilpailuvirasto.fi/english). The FCA's home pages contain e.g. English press releases of all the major cases of international interest. In September 2005, the FCA published a brochure in English on its tasks, activities and staff. The brochure which is titled "*Efficiency through Competition*" is also available on the FCA's home pages.

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

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

8. Due to the adoption of the new Regulation implementing Articles 81 and 82 of the EC Treaty, the Finnish national legislation was also reformed as of 1 May 2004 (318/2004). Articles 81 and 82 of the EC Treaty thus became directly applicable in Finland, as in the rest of the Member States. The amended Competition Act, which now corresponds to the common EU competition rules, has been enforced since 1 May 2004. 2005 was thus the first year the amended Competition Act was applied.

9. The harmonisation of the provisions implied the expansion of the scope of the prohibition principle in the Finnish competition legislation. In 2005, the prohibition principle was fully established.

10. In the context of the reform, the old exemption system was waived, the provisions on the amount of competition infringement fines were revised and a leniency system was adopted whereby companies may receive total or partial immunity from fines if they assist the FCA in the exposure of cartels. In addition to this, the provisions determining the amount of the competition infringement fines have been revised.

11. The obligation to notify mergers and acquisitions is now dependent on a more explicit connection to the Finnish markets. The amendment reflects directly the number of transactions notified to the FCA.

12. Substantially, the biggest amendments are related to the treatment of vertical restraints. As a result of the amendments, other competition restrictions related to distribution channels than resale price maintenance and abuse of dominant position related to distribution agreements are now covered by the prohibition principle.

13. The amended Competition Act also contains an adoption of assessment of significance corresponding to the EC legal praxis: only measures which “significantly” impede, limit or distort competition will be forbidden. The content of the provisions of minor importance (*de minimis*) has been further clarified in the guidelines issued by the FCA, based on the European Commission Notice.

14. In the context of the reform, the powers of the competition authorities were also revised. The decision to terminate prohibited conduct is taken by the FCA and not the Market Court. The FCA’s decisions are appealable to the Market Court. However, competition infringement fines are still imposed by the Market Court on the FCA’s proposal.

15. As regards related legislation, in December 2005, the Parliament approved a bill concerning payments such as bribes and sanctions including competition infringement fines that no longer shall be tax-deductible. The grounds thereof included the argument that the possibility to deduct these types of payments undermines their deterrent effect. The law shall be enforced for the first time in the 2006 taxation.

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

16. The FCA has not published guidelines or other relevant measures in 2005. In May 2004, the FCA published five Notices concerning horizontal and vertical competition restraints, restrictions of minor importance, reduction and non-imposition of competition infringement fines and the revised merger provisions. They were based on the Block Exemption Regulations and Guidelines published by the Commission and they clarified the FCA’s application practice.

### **1.3 Government proposals for new legislation**

17. There were no Government proposals for new competition legislation in 2005.

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

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

#### *a) Summary of activities of the FCA and the courts*

18. In 2005, 414 domestic competition restraints cases (incl. opinions and initiatives) and 55 merger cases were opened at the FCA. The number of cases decreased by 24 per cent compared to 2004. A total of 479 competition restraints and merger cases were closed in 2005, a 24 per cent decrease compared to 2004. The number of pending cases at the end of the year lowered by 6 per cent compared to 2004.

19. In competition enforcement and competition advocacy, the emphasis was to be on preventive control conducted on the FCA's own initiative as compared to ex post control. Resources were particularly engaged in cartel enforcement, and the telecom and energy sectors, as regards abuse of dominance. These two fields were also highlighted in the competition advocacy work.

20. The FCA investigated several cartel cases in 2005. The increase in the number of cases was due to the FCA channelling more resources into cartel investigation and e.g. by cooperating with public sector buyers. The FCA wanted to provide a clear message of its willingness to intervene in competition infringements. In 2005, the FCA investigated e.g. an alleged market sharing cartel in the ventilation market, an alleged anticompetitive cooperation in wholesale trade for spare parts for cars, an alleged national price cooperation in the market for after-sales services of household appliances and alleged cooperation in the raw wood market. In addition, an alleged boycott in photo sales market and alleged anticompetitive information sharing in roof felt market were also under investigation in 2005. The FCA has also provided information about its work against cartels during its visits to the ten biggest cities in Finland.

21. In 2005, a major part of the resources in cartel enforcement were still tied up with requests for access to file lodged on the basis of the new Act on the Publicity of Official Documents and the consequent disagreements between the FCA and the companies subject to alleged cartel infringements. The FCA is involved in several cases which relate to the publicity of documents and which are pending in the Supreme Administrative Court and in other administrative courts. Of importance is e.g. the question of the publicity of recording tapes.

22. The investigations on the broadband market commenced in 2002 still tied up a large number of the FCA's resources in 2005: the project itself ended in the Market Court proposal made in October 2004 on the regional telephone company Lännen Puhelin but the FCA still received a number of new complaints on the broadband markets even after that.

23. Following the amendments of the spring of 2004, exemptions are no longer granted.

24. In 2005, the FCA made four proposals to the Market Court on the imposition of fines for competition infringements. In addition, a number of cases were at the stage in which the FCA was about to initiate proceedings before the Market Court.

25. The Market Court is reviewing four competition restriction cases regarding insurance companies, architects, the asphalt business and broadband market, in which proceedings have been initiated in 2004. The cases were still pending in 2005.

26. The Supreme Administrative Court issued one decision on appeals made against the Market Court's decisions in competition cases.

*b) Description of significant cases, including those with international implications*

Cartels and other forbidden agreements

Asphalt cartel

27. The FCA's proposal to the Market Court on the imposition of fines for seven asphalt companies and the Finnish Asphalt Association was still pending at the Market Court in 2005. The FCA found that the companies have been engaged in forbidden national price and bidding cooperation and market allocation at least during 1994-2002. The Finnish Asphalt Association was considered suspect of forbidden exchange of information in 1997. The total amount of the infringement fines proposed was roughly 97 million euros. When considering the amount of the infringement fines, the FCA e.g. paid attention to the volume of operations of the companies involved in the cartel, the duration and gravity of the infringement and the companies' role in the cartel. In 2005, the FCA provided additional statements and replies concerning the counter-arguments presented by the parties to the Market Court.

Proposal to the Market Court on the imposition of an infringement fine on pricing practice applied by daily consumer goods chains

28. In February 2005, the FCA made a proposal to the Market Court on imposing an infringement fine of 100.000 euros to Kesko Plc and an infringement fine of 10.000 euros to the K-Food Retailer Association. In determining the amount of the fine, the FCA found it a mitigating circumstance that Kesko had contributed to the investigation of the competition restraint.

29. The FCA examined the pricing practices of the daily consumer goods chains in 2002. It was detected during the investigations that the K-market, K-neighbourhood store and K-extra chains had conducted forbidden price cooperation. The forbidden cooperation took place in the K-market and K-neighbourhood store chains in 1997-2000 and consisted of setting maximum prices on the daily consumer goods part of the basic selection. A corresponding infringement took place in the K-extra chain in 1999-2000.

30. An exemption had been sought from the FCA in 1998 for the imposing of maximum prices but the FCA had rejected the application. The price cooperation continued in spite of this. Kesko participated in the prohibited conduct by implementing the pricing decisions of the chain boards. The pricing information was delivered to the retailers either as lists or by directly feeding the information in the cash systems. Additionally, based on the chain agreements, Kesko demanded that the retailers follow the prices set by the chain boards.

Price cooperation in the malted barley market

31. In October 2005, the FCA concluded the investigations in the malted barley market. The FCA found that the Central Union of Agricultural Producers and Forest Owners and the manufacturers of malt engaged in forbidden national price cooperation during 1995-2004. The matter has been appealed before the Market Court.

## Rebates in the pharmaceutical sector

32. In the spring of 2005, the FCA initiated investigations in a matter which concerned the rebates given by pharmaceutical companies to pharmacies from the wholesale prices of medicines. The FCA had requested the pharmacies to provide it with information on these rebates. The rebates were based on agreements which had in common that the pharmacy, when favouring the products of a certain pharmaceutical company, obtained a compensation from that company in the form of an additional rebate. The rebates primarily related to medicines which could be substituted by generic products.

33. The FCA considered that an individual pharmacy was hence tied to the products of a pharmaceutical company in a manner which – considering the regulation of the pharmaceutical markets and the other national characteristics of the system – limited the possibilities of competing pharmaceutical companies to obtain shelf space for their products from the pharmacies and hence to make the medicines available to customers.

34. The FCA considered that such agreements limited customer choice and had an impact on competition between pharmaceutical companies. As the pharmaceutical legislation required that all pharmacies price the drugs according to the same tariff, the rebates did not benefit customers in the form of lower prices. The FCA informed the pharmaceutical companies and pharmacies that the rebates violate the Competition Act and requested that the pharmaceutical companies inform the FCA, in writing, which measures they will take regarding the agreements. The pharmaceutical companies informed the FCA that the agreements concerning the above-mentioned rebates would be terminated by the end of 2005 or that the pharmaceutical companies would in other ways refrain from the applied rebates.

35. In the course of these proceedings, the Medicines Act was amended. According to the new Act, which came into effect on 1 February 2006, pharmaceutical companies are obliged to give the same rebates to all pharmacies. This means that the wholesale price on which the pharmacies price the medicine would thus be lower to all pharmacies. As the pharmaceutical companies have to conform to the new provision of the Medicines Act, the FCA closed the investigations in March 2006.

## Abuse of dominant position

### Decision of the Supreme Administrative Court on abuse of dominant market position on remunerations on the copyrights of the musical arts

36. In October 2005, the Supreme Administrative Court issued a decision by which it confirmed that Gramex, the Copyright Society of Performing Arts and Phonogram Producers, abused its dominant position in 2000. Gramex has a monopoly on the copyrights of the musical arts it administers. The Court also confirmed an infringement fine of 250.000 euros which was issued by the Market Court. Initially, the FCA proposed that the Market Court impose on Gramex an infringement fine of three million FIM. Gramex applied a different tariff to Radio Nova, a national commercial station, than it had to local radio stations. Gramex had also made offers on remuneration differing from the rest of the commercial radio sector to some specialised stations.

### Abuse of dominant position in broadband market

37. In October 2004, the FCA made a proposal to the Market Court on the imposition of an infringement fine of one million euros to the local telephone company Lännen Puhelin Ltd. The proposal argues that by the pricing and technical properties of its wholesale broadband product offered to competing operators, Lännen Puhelin has prevented the entry of competitors to its traditional operating area and hence violated the Competition Act between 1 June 2001 and 30 June 2004. The case was still pending at the Market Court in 2005.

38. Lännen Puhelin offered to its competitors a wholesale product based on two alternative network technologies. In one, the company applied a so-called prize squeeze and the other was such by its technical properties that, by using it, only the service operator of Lännen Puhelin could offer broadband connections to consumers. Competing operators thus did not have available to them an ADSL wholesale product which would have enabled entry to the market. With its more than 90 per cent market share, Lännen Puhelin was hence the sole provider of broadband connections in its area.

Proposal to the Market Court on the imposition of an infringement fine on abuse of dominant position in the wholesale market of telephone subscriber information

39. In May 2005, the FCA issued a decision in which it stated that Suomen Numeropalvelu Ltd (Finnish Telephone Number Service, hereinafter SNOY) had committed forbidden abuse of dominant position. A procedure was involved whereby SNOY demanded that its customer companies offering telephone directory services could not offer their services to end customers for free and without prior registration over the Internet.

40. SNOY is a joint company of the Fonecta Group Ltd and Finnet-Media Ltd, which maintains a national database of telephone subscriber information and resells the information to companies offering telephone directory services. SNOY has no competitors at the moment. SNOY's owners compete with the complainant, Eniro Finland Ltd, as providers of telephone director services.

41. Based on its investigations, the FCA found that SNOY's conduct was ultimately an attempt to prevent the entry of competitors offering a new type of service. At the same time, SNOY's conduct slowed down the development of directory services which exploited new technology and which were more user-friendly, versatile and cost-effective. SNOY's conduct hence contradicted with the legislator's aim to increase the supply of new kinds of telephone directory services and to promote the use thereof.

42. In its decision, the FCA forbid SNOY's conduct as breach of the Competition Act. The decision also imposed a supply obligation on SNOY regarding the telephone subscriber information. To enforce the decision, a running conditional fine was imposed. In addition to the prohibition decision, the FCA proposed to the Market Court that it impose a competition infringement fine of 150.000 euros on SNOY. The case is still pending at the Market Court.

## 2.2 *Mergers and acquisitions*

### a) *Statistics on number, size and type of mergers notified and/or controlled under competition laws*

#### **The FCA's merger decisions 2004-2005 (calendar years)**

	2004	2005
Decisions	65	33
Lapsed pre-notifications	8	5
Other closed cases	16	9
<b>Total</b>	<b>89</b>	<b>47</b>



### Merger decisions according to type of decision

	2004	2005
Proposal to prohibit	0	0
Cleared as conditional	1	2
Cleared as such in Stage I	64	30
Cleared as such in Stage II	0	1
Acquisition not covered by merger provisions	0	0
<b>Total number of decisions</b>	<b>65</b>	<b>33</b>

#### b) *Summary of significant cases*

##### *Metsäliitto Cooperative / Finnish State / Vapo Ltd.*

43. In January 2005, the FCA cleared as conditional an acquisition whereby Vapo Ltd, where the Finnish state has a majority ownership, transfers to the joint control of the Metsäliitto Cooperative and the Finnish State. The competitive problems of the concentration were primarily seen to be related to energy peat and wood-based fuels, which are, at least to a certain extent, competing fuels.

44. The background of the investigation was that Vapo held a significant market position in the energy peat market and that both Vapo and a national bio energy company Biowatti part of Metsäliitto also operated in the wood-based fuel market. One condition for the clearance of the acquisition was that almost all of Biowatti's wood-based fuel businesses be divested from the concentration and be sold to Biowatti's operative management. In addition, some conditions were imposed on the market conduct of the concentration formed by the Metsäliitto Cooperative and Vapo, the purpose of which is to safeguard the business potential of the new Biowatti for the transition period.

45. In the context of the deal, an agreement was made on the raw material deliveries by Metsäliitto to the new Biowatti. In the FCA's estimate, the company has good opportunities to build an extensive relationship of cooperation to other suppliers of raw material as well. With the conditions, the overlapping activities of the parties in the wood-based fuel market will be eliminated and the new Biowatti will have all that is required to form a major competitor on the wood-based fuel market.

46. The FCA had reviewed a similar arrangement at the start of 2001 and cleared the acquisition as conditional as regards energy peat and wood-based fuels. However, the deal was dissolved after the decision had been issued.

##### *Elisa plc / Saunalahti Group plc*

47. In October 2005, the FCA cleared as conditional an acquisition whereby Elisa plc acquired control in the Saunalahti Group plc. Saunalahti which specialises in Internet and teleoperator services has been active in the national mobile telephony markets and broadband Internet service markets e.g. in several of Elisa's traditional areas of operation. Saunalahti has also built its own ADSL trunk network to implement the broadband services. Elisa which offers telecom and data transmission services has a strong market position e.g. in the wholesale and retail markets of broadband services.

48. The approval was subject to the condition that Elisa divests Saunalahti's own network for broadband services called SaunaVerkko on certain traditional operating areas and sells it to a third party approved by the FCA.

49. The operating areas mentioned in the decision include the capital city area of Helsinki and the cities of Tampere, Jyväskylä and Riihimäki. In the latter three cities, the sales shall cover the customers of the SaunaVerkko as well. Some other conditions were also imposed on Elisa with the purpose of securing, for the transitional period, the business opportunities of the entities to be divested from the group.

50. The FCA holds that competition in the broadband market is regional. Without the conditions imposed, Elisa's dominant position in the retail and wholesale broadband service markets in the said areas would have strengthened to the extent that competition would have been significantly prevented.

51. The FCA found that the transfer of Saunalahti to Elisa's ownership decreased competition in the mobile telephony services. It did not lead to the creation of a dominant position, however, which should have been intervened by means of merger control.

*Rautaruukki Plc / PPTH Steelmanagement Inc.*

52. In December 2005, the FCA cleared an acquisition whereby Rautaruukki Plc acquired control in PPTH Steelmanagement Inc, of which it has formerly owned 21,9 per cent. The deal was transferred to Stage II in November.

53. PPTH offers industrial and office turnkey deliveries and produces structural steel frames for builders of bridges and machines. Rautaruukki is a major supplier of raw material for steel constructors in Finland. As a result of the acquisition, Rautaruukki will expand its operations in the steel construction market where it is a major supplier itself.

54. The main problem examined at Stage II was whether Rautaruukki, as prominent material supplier, was able to reduce competition in the steel construction market by placing PPTH's competitors at a competitive disadvantage compared to itself as regards raw material deliveries.

55. The FCA investigations showed that the deal did not create problems which may be intervened with by means of merger control. Since steel can be replaced by alternative building materials in the majority of the building sites, in addition to the steel construction market, the FCA also examined the competitive effects of the deal in the entire market of industrial and office construction deliveries.

56. In the majority of the cases, building developers may choose e.g. a structure made of concrete instead of steel and may hence choose to work with other than steel contractors. The FCA's investigations also showed that Finnish steel constructors are able to purchase steel products from other manufacturers than Rautaruukki, several European steelworks, in particular. Rautaruukki's PPTH acquisition was approved as such, without conditions, since the legal threshold for intervention was not exceeded in this case.

*Omya AG / J.M.Huber PCC*

57. In April 2005, the FCA requested that the European Commission would investigate an arrangement whereby the international Omya AG specialised in the production and sales of industrial minerals acquired J.M. Huber Corporation's world-wide PPC, precipitated calcium carbonate business. Calcium carbonates are commonly used in the manufacture of paper to enhance the paper attributes.

58. The acquisition was only notified to the FCA, although the parties to the arrangement have overlapping business activities in other European Countries, too. In addition to the three Finnish PCC production plants, the target of the acquisition has production plants in Sweden, France and Portugal.

59. The FCA decided to refer the case to the European Commission because it considered that an investigation conducted by one national authority alone does not guarantee, in the best possible way, that the competitive effects of the concentration will be sufficiently examined in the entire region of Europe.

60. Depending on the market definition, the concentration created as a result of the acquisition would have high market shares both in Finland and within the region of Europe. The FCA's preliminary market research would seem to imply that the calcium carbonates used in the manufacture of paper (PCC and ground calcium carbonate, GCC) form their own distinct product market from the viewpoint of the user. The parties' combined market share in these product markets is 80-95 per cent in Finland and 70-85 per cent in the EEA area.

61. In May 2005, the European Commission accepted the referral request and stated that it will investigate the proposed concentration under the Merger Regulation. The case is pending in the European Commission.

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

62. Influencing the decision-making of government authorities forms a major part of advocacy. It is the objective that different rules or operating modes of public corporations – including state-owned enterprises – would not prevent or distort competition. In practice, the competition angle is usually put forth in various committees, working groups or in the context of other cooperation and interaction. Initiatives to dismantle restrictive rules and regulations and statements related to draft bills are important tools of advocacy.

63. The FCA has actively participated in different working groups. In 2005, the FCA participated in 15 working groups which concerned amendments to legislation. This type of participation provides the FCA with a "soft" mechanism to influence the reforms, i.e. to confirm that the regulatory impact on competition is considered at an early stage of law-drafting.

64. As regards public production, the focus in recent years has been on the marketisation of the municipal services. The FCA has participated e.g. in two working groups set up by the Ministry of Trade and Industry and in one working group set up by the Ministry of Finance. One of the working groups set up by the Ministry of Trade and Industry is a steering group whose duty is to investigate the state of the municipalities' service production. The working group set up by the Ministry of Finance relates to the government productivity project. The task of the group is to examine the role of the public sector in the production of public services.

65. The other working group set up by the Ministry of Trade and Industry examines the boundaries between public and private services. The aim of the FCA is to influence that consumers can trust public and private services alike. Simultaneously, unwarranted restrictions in the functioning of market should be avoided.

66. The FCA also participates in the project on the assessment of regulatory impact on enterprises. The project was initiated by the Ministry of Trade and Industry. The aim is to enhance the assessment of regulatory impact on companies in law-drafting and to develop methods for the assessment of regulatory impact. The following three competitive aspects are central for the assessment: companies' administrative

costs, distortion of competition, and incumbents' tendency to protect their positions against entrants. The creation of market is an important aspect in the marketisation of public production.

67. As regards other forms of advocacy in 2005, the focus was on matters in which the FCA has participated in law-drafting, in particular in the administrative sectors of the Ministry of Transport and Communications and the Ministry of the Environment. In both sectors, reforms correspond to the views provided by the FCA.

68. As regards the administrative sector of the Ministry of the Environment, the FCA participated in a working group whose duty it is to investigate issues of responsibility and competition regarding municipal waste management. The working group concluded its work in 2005. The FCA also participates in the follow-up group set up by the Ministry of Trade and Industry with the duty to follow the progress of the national construction political programme. FCA's participation in the working groups set up by the Ministry of Trade and Industry on trade and the allocation criteria of emission rights was also of significance.

69. As regards the administrative sector of the Ministry of Transport and Communications, the FCA's activities related to the maintenance of public roads, aviation, railways and shipping. In addition, the FCA has issued statements on bus and taxi services and the development of the organisation of the Finnish Road Enterprise. The FCA also participates in the working group with the duty to prepare the implementation of the national broadband strategy and to follow its progress.

70. As regards the administrative sector of the Ministry of Social Affairs and Health, the most significant issues have related to price and distribution systems of medicines as well as employment pension and other insurance businesses. With regard these issues, the FCA has issued several opinions and has also been heard before the Parliament.

71. The FCA regularly meets representatives of the Finnish Federation of Municipalities. The meetings have dealt with the transparency of public purchases and the activities of municipal actors.

#### *Municipal waste management*

72. In the spring of 2005, the working group set up by the Ministry of the Environment concluded its work. The setting up of the working group was initiated by the FCA. The FCA supports the suggestions and recommendations of the working group, which would mean that approximately one third of the municipal waste management would be opened to competition.

#### *Reform of the national legislation of pharmaceuticals*

73. On the FCA's proposal, the Parliament issued a decision at the start of 2006 requiring the Government to start a comprehensive total reform of the national legislation of pharmaceuticals as it considered a partial reform of this legislation on the basis of the Government's bill. The Government is now about to nominate a working group to consider the total reform. In the course of enacting the new Medicines Act, the FCA drafted a summary memorandum on the competitive problems in the pharmaceutical market. It issued also an opinion to the Ministry of Social Affairs and Health on the report of the National Agency for Medicines, in which it suggested that the pharmacy fee be halved, the degressivity of the price list for drugs be increased and the founding rights of the branch pharmacy rights be expanded. In addition, the FCA stated that there is a need for an overall reform with regard to price and distribution systems in Finland. FCA stated that, in the long run, it would be important to establish the Internal Market for pharmaceuticals. The suggested reform would, among others, increase consumer choice and decrease the consumer prices of medicines.

*Foodstuff trade*

74. Supported by the Nordic Council, the Nordic Competition Authorities examined the circumstances of the foodstuff industry and trade in the Nordic countries. The report of the working group titled “*Nordic Food Markets – a taste for competition*” was published in Copenhagen, Denmark in December 2005. The problems in the foodstuff trade include high rate of concentration, expensive food prices and difficulty to obtain shelf space. According to the report, there is variety in the food prices in Nordic countries. However, prices slowly start to resemble the EU15 prices. The food assortment seems to be narrower in the Nordic countries than in the benchmark country France. In Finland, however, the food assortment seems to be markedly wider than in other Nordic countries. The report notes also that the rate of concentration of the foodstuff industry and trade is alarmingly high in the Nordic countries. As regards shelf space entry, the report urges that operators be particularly observant when they estimate e.g. the lawfulness of loyalty rebates, slotting allowances and other corresponding arrangements. The report also notes that zoning decisions have an effect on competition. In Finland, zoning problems are related to the large retail units of trade, in particular.

75. The working group’s recommendations thus concern, i.e. the rate of concentration, shelf space entry and access to new shop sites.

*Promoting competition-related research*

76. In 2005, the FCA continued its dialogue with the Ministry of Trade and Industry on the competition-related research projects financed by the Ministry. Of the programme proposals presented by the FCA in 2003, the research project on the development and operationalisation of follow-up methods relating to competition and the project on regulatory impact assessment were considered the most important. The FCA delivered the research plan proposals relating to these two projects to the Ministry in April 2004.

77. The first project concerning the development and operationalisation of follow-up methods relating to competition was completed in 2005. The project was carried out by the Institute for Competition Policy founded under the Turku School of Economics and Business Administration. The FCA has representation in the research steering group.

**4. Resources of the FCA****4.1 Resources overall (current numbers and change over previous year)***a) Annual budget (in euros and USD)*

<b>Year</b>	<b>No. of FCA officials</b>	<b>Budget expenditure euros (and US Dollars)</b>
2005	65	5.074.000 (6.153.240*)
2004	67	4.688.000 (5.646.000**)
2003	68	4.593.000 (5.196.000***)
2002	67	4.571.000
2001	66	3.974.000
2000	62	3.596.000

\* According to the euro exchange rates published on 11 April 2006.

\*\* According to the euro exchange rates published on 19 April 2004.

\*\*\* According to the average rate of euro in 2003.

b) *Number of employees (person-years)*

Economists:	20
Lawyers:	19
Other professionals:	11
Support staff:	15
All staff combined:	65

4.2 *Human resources (person-years) applied to*

a) Enforcement against anticompetitive practices (Cartel Unit):	19
b) Merger review and enforcement (Monopoly Unit, which deals with both merger control and cases concerning abuse of dominant position):	18
c) Advocacy efforts:	7

4.3 *Period covered by the above information*

2005

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

78. The Ministry of Trade and Industry appointed the FCA's former Director General Mr. Matti Purasjoki to investigate the competitive situation in the Finnish wholesale and retail energy markets. Some deficiencies and problems in the functionality of the markets in the energy sector have been identified. The preliminary results of the investigation will be published by the end of November 2006.

79. As regards forthcoming events, the FCA will host the fourth European Forensic IT meeting in Helsinki on 10 and 11 May 2006. Finland and Austria, who share the EU-Presidencies in 2006, will organise the European Competition Day 2006 Conference in cooperation with the European Commission in Vienna on 19 June 2006. The European Competition Day 2006 will be titled "*Competition Law and its Surroundings – Links and New Trends*". In addition, the FCA organises a Conference on Competition and Liberal Professions in cooperation with the European Commission in Brussels in November 2006, i.e. during Finland's EU-Presidency.