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Annual Report on Competition Policy Developments in Denmark

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This report is submitted by Denmark to the Competition Committee FOR INFORMATION at its forthcoming meeting to be held on 6-8 June 2018.

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1. Executive Summary

1. In line with the Danish Competition and Consumer Authority's (DCCAs) mission to secure well-functioning markets, focus was given to stopping anti-competitive agreements, merger control and advocacy. The Danish Competition Council found that undertakings had infringed article 6 of the Danish Competition Act in five separate cases. The authority also launched two cases regarding abuse of dominance, which however had not been processed by the end of 2017.
2. The DCCA processed a large number of merger cases in 2017, totalling 51 cases of which particularly three cases were comprehensive: the proposed merger between JP/Politiken Hus A/S and Dagbladet Børsen, the merger between Imerco Holding A/S and Inspiration A/S and the merger between SE a.m.b.a. and Boxer TV A/S. The notification of the first merger was withdrawn prior to a decision being made. The second and third mergers were both approved subject to commitments.
3. 2017 was also a year during which the Danish Competition Act was amended, totalling 11 material changes. Notably, the *de minimis* rules were amended, and a possibility to *stop-the-clock* during the process of merger control was introduced. In addition to this, new guidelines on joint bidding (consortia) have been published. An English version of the new guidelines is expected to be released in 2018.
4. The efforts to promote advocacy included a major study on the Danish mortgage market and releasing five articles regarding current competition topics. Furthermore, several behavioural experiments have been launched with an aim to improve competition from the demand side of the economy.
5. Finally, the DCCA increased its efforts to create awareness of the benefits from effective competition, with continued focus on using social media, pod casts etc.

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

2.1. Summary of new legal provisions of competition law and related legislation

2.1.1. Amendments to the Danish Competition Act

6. In December of 2017, the Danish parliament adopted a number of amendments to the Danish Competition Act.
7. The amendments included a change to the Danish *de minimis*-rules, clarifying that agreements which fall under certain thresholds and are not a *by object*-restriction, are legal, thus bringing the rules in line with the European Commission's De Minimis Notice¹.
8. Furthermore, amendments were made to strengthen the framework for enforcing the Danish competition rules. This was achieved by:
 - Giving the DCCA the possibility to *stop the clock* during the process of merger control, if the merging parties do not supply the information requested by the DCCA which is necessary for the assessment of the merger.

¹ <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:C:2014:291:TOC>

- Creating legal basis for a Nordic Co-operation Agreement², according to which the DCCA *inter alia* can procure information and conduct dawn raids on behalf of other Nordic competition authorities in connection with the application of their respective national competition rules or EU/EEA rules.
 - Instituting a marker system to encourage leniency applications and ensure a more effective leniency programme. This change was based on a recommendation by the OECD in its peer review of the Danish Competition Law and Policy³.
9. Amendments were also adopted to limit access to file in competition cases:
- The rule on the public's access to file in competition cases was clarified mandating that only companies (i.e. not natural persons) are allowed access to file in competition cases⁴.
 - A rule will enter into force on the 28th of May 2018, limiting the DCCAs duty to inform natural persons (article 13-14 in the General Data Protection Regulation) and limiting natural persons right of access to file (article 15 in the General Data Protection Regulation).
 - Parties' limited right of access in correspondence and documents exchanged between the Danish Competition and Consumer Authority and the European Commission under Regulation 1/2003 has been extended to also apply to correspondence and exchange of documents under Regulation 139/2004.

2.1.2. Nordic Co-operation Agreement

10. In autumn of 2017, the Nordic countries signed the Nordic Co-operation Agreement. The purpose of the agreement is to improve co-operation between the Nordic competition authorities, *inter alia* by reducing obstacles for effective co-operation on enforcement, *by* obligating the countries to co-ordinate efforts in cases relating to the same practice or merger *and by* ensuring that the countries support each other in their enforcement activities by providing each other with investigative assistance when appropriate.

2.2. Other relevant measures, including new guidelines

2.2.1. Guidelines on consortia

11. In 2017, the guidelines on joint bidding consortia from 2014 were taken under review. This resulted in a public hearing on the draft proposal for the guidelines in June of 2017. Following amendments and clarifications based on the hearing the guidelines have been approved by the Danish Competition Council and have been published in April of 2018⁵. An English version will be released at a later time.

² The Nordic Cooperation Agreement was signed in autumn of 2017 and can be found here: <https://www.kfst.dk/media/47264/nordisk-samarbejdsaftale-ventes-at-traede-i-kraft.pdf>.

³ Competition Law and Policy in Denmark, A Peer Review

⁴ The access for companies is furthermore restricted in that companies are only allowed access to information that regards themselves.

⁵ <https://www.kfst.dk/pressemeddelelser/kfst/2018/20180425-konsortiesamarbejde-i-forhold-til-konkurrenceoven/>.

2.3. Government proposals for new legislation

2.3.1. Fair and equal competition

12. Today, the public sector may in some cases offer goods and services in competition with commercial businesses from the private sector. Building on recommendations from the DCCA, the Danish government has launched a proposal to obtain a more level playing field. The intention is to 1) review and clarify the rules that determine when municipalities can offer such goods and services, 2) setting up better rules governing price setting based on principles that have been launched by OECD, and 3) make it easier to complain if such rules are not followed.

3. Enforcement of competition laws and policies

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

13. In 2017, the Competition Council decided on seven antitrust cases, five of which concerned anti-competitive agreements.

14. A total of six cases were referred to the State Prosecutor for Serious Economic and International Crime who has jurisdiction to pursue sanctions in competition cases. In two cases fines were accepted, and in one case the court imposed a fine on a company. The remaining cases are still pending.

3.1.1. Summary of significant cases

Horizontal agreements in the framework of the Danish Camping Organization

15. The Danish Competition Council found that Campingraadet, an umbrella organization consisting of 12 associations representing campsite owners, campsite users and other organizations, had infringed section 6 of the Danish Competition Act by adopting the decisions (1) that all campers who wish to stay at a campsite organized under Campingraadet, had to present or buy a Camping Key Europe card (“CKE-campingpass”) issued by Campingraadet and (2) that the CKE-campingpass had to be sold at a fixed price of DKK 110 [USD 16.68⁶].

16. The agreements were found to be horizontal, inter alia, because Campingraadet consists of DK-CAMP, who represents 300 independent Danish campsite owners, and DCU who owns 23 campsites in Denmark. In addition, 3 campsite owners are members of the board of representatives and 2 campsite owners are members of the board of directors.

17. The decision by the Competition Council has since been upheld by the Danish Competition Appeals Tribunal and handed over to the State Prosecutor for Serious Economic and International Crime for the purpose of pursuing criminal sanctions.

⁶ Unless otherwise stated DKK have been converted into USD using the average 2017 exchange rate of 1USD = 6.5953 DKK. [Source: <http://nationalbanken.statistikbank.dk/nbf/100249>]

Agreement between Danish manufacturers of roofing membranes

18. In May of 2017, the Danish Competition Council found that two companies within the roofing membrane industry and two roofing membrane organizations had entered into an agreement and/or concerted practice with the aim to foreclose actual and potential competitors and limit their product supply. The Competition Council issued an injunction ordering the parties to terminate the restrictive agreement and/or colluded practice. This also required that the industry standard for roofing membranes etc. had to be repealed, since these standards were developed by the parties and was considered to be a result of the concerted practice.

Post Danmark's individual rebates to customers of distribution of magazine mail between 2007-2009

19. In June of 2017, the Danish Competition Council made its final decision regarding Post Danmark's distribution of addressed magazine mail. The Danish Competition Council found that Post Danmark, which had a 80 % market share and was an unavoidable trading partner because it was the only nationwide distributor of magazine mail, had abused its dominant position in violation of section 11 in the Danish Competition Act and TFEU article 102.

20. The abuse consisted of Post Danmark granting rebates to selected and important customers with the precondition that the customers obtained all, or nearly all, their requirements from Post Denmark. The customers risked losing a very large rebate if they decided to buy even a small part of their demand from one of Post Danmark's competitors, and the rebates thus had a loyalty-inducing and foreclosing effect.

21. The decision is a confirmation of the decision the Danish Competition Council made in 2010, where the Danish Competition Council also found that Post Danmark had abused its dominant position by applying the rebates in question. The case was appealed to the Danish Competition Council, where it was later remitted for different reasons.

22. The remitted case was then put on hold awaiting the clarification of two fundamental questions regarding dominant undertakings' conduct in regards to rebates. These questions have been resolved by the Court of Justice of the European Union in the Intel-ruling from 2014 and the preliminary ruling in a case regarding Post Danmark loyalty rebates to direct mail customers. In light of these clarifications the case was resumed and the Competition Council could make a final decision in May 2017.

Free choice of provider of cash handling and transportation services

23. The DCCA has accepted commitments offered by a cash handling company, Loomis Danmark A/S ("Loomis") on the one hand and 50 bank customers on the other hand, in a case concerning cash handling and transportation services.

24. In connection with a merger between Loomis and another cash handling and transportation company, Bankernes Kontantservice A/S ("BKS"), which was formerly owned by the banking sector, an addendum was agreed upon between Loomis and BKS. According to the addendum, the bank customers of BKS were "in all material respects" obligated to continue to purchase the services from Loomis in a manner "consistent with past practice". There was no explicit obligation to undertake a specific volume, but previously each bank customer had subscribed almost exclusively to the services of only one provider.

25. In order to alleviate the concerns expressed by the DCCA in its preliminary assessment, the involved parties offered to reword the addendum, clarifying that the bank customers have no obligation whatsoever to acquire their services from Loomis/BKS, neither in whole or in part.

Customer sharing between two redistributors of unaddressed mail

26. In August 2017, the DCCA issued a decision ordering Mediacenter Danmark (“MCD”) and MPE Distribution (“MPE”) to terminate an agreement regarding customer sharing.

27. Originally, MPE contacted the DCCA regarding the case, and in a subsequent dawn raid *inter alia* on MCD’s premises, the agreement not to compete for each other’s customers was uncovered. The period covered by the agreement was late 2013 to late 2014.

28. The case has been appealed to the Danish Competition Appeals Tribunal by MCD where it is currently pending.

Price fixing and information exchange within the association of camera distributors

29. In December of 2017, the Danish Competition Council found that the purchasing association for cameras, Team DS, had infringed section 6 of the Danish Competition Act and article 101 of the TFEU by co-ordinating prices on cameras and camera accessories within the 54 independent, competing camera distributors. Team DS had also exchanged information between the camera distributors regarding prices and other competitive parameters.

30. The case has been appealed to the Danish Competition Appeals Tribunal by Team DS where it is currently pending.

3.2. Mergers and acquisitions

3.2.1. Statistics on number, size and type of mergers notified and/or controlled under competition laws

31. In 2017, the Danish Competition and Consumer Authority approved a total of 49 notified mergers. 45 of the mergers were processed under the simplified approval procedure. Of the remaining mergers, 1 was approved in phase 1, and 3 after a phase 2 investigation, including 2 mergers which were approved subject to commitments offered by the merging parties. In addition, two merger notifications were withdrawn in phase 2 in 2017.

3.2.2. Summary of significant cases

Approval of Imerco Holding A/S' merger with Inspiration A/S subject to commitments

32. In August 2017 the Danish Competition Council approved Imerco Holding A/S' ("Imerco") acquisition of sole control of Inspiration A/S ("Inspiration") subject to commitments⁷.

33. Imerco and Inspiration are both retail chains active in the market for retail sale of housing articles, e.g. table top, kitchenware, and electronic household appliances. The Danish Competition and Consumer Authority considered that the merger would give rise to unilateral effects in the form of (i) higher prices, (ii) small variation in supply/range, and/or (iii) reducing the level of service in the market for retail sale of mid-range and high-end housing articles.

34. However, the parties offered commitments. This included that the owner of Inspiration committed to keep 20 of the current 45 Inspiration shops and to open a number of new shops, and also to rebrand the shops as a new retail chain. The Danish Competition Council assessed that the commitments were sufficient to address the concerns, and the merger was approved subject to the offered commitments.

Approval of SE a.m.b.a.'s merger with Boxer TV A/S subject to commitments

35. In September 2017 the Danish Competition Council approved SE a.m.b.a.'s ("SE") acquisition of sole control of Boxer TV A/S ("Boxer") subject to commitments⁸.

36. SE provides households with TV services and Internet access services through coax and fibre network. Boxer provides households with TV services through the DTT network and Internet access services through TDC's network. The Danish Competition and Consumer Authority considered that the merger could give rise to unilateral effects in the market for retail provision of TV services to end users in the form of (i) reduction of supply of a la carte products and/or (ii) higher prices on a la carte products. In the market for retail supply of fixed Internet access services to end users the merger would give rise to unilateral effects in the form of tying of supply of fixed Internet access with supply of TV services provided through the DTT network.

37. However, the parties offered commitments. SE has committed to continue to supply the a la carte products that Boxer supplies at the time of the notification and not to increase prices on a la carte products. The commitments also prevent SE from tying supply of fixed Internet access to end users with supply of TV services provided through the DTT network. The commitments will expire when Boxer's DTT license expires. The Danish Competition Council assessed that the commitments were sufficient to address the identified unilateral effects, and the merger was approved subject to the offered commitments.

⁷ The press release for the case can be found at <https://www.en.kfst.dk/nyheder/kfst/english/decisions/20170816-the-danish-competition-council-has-approved-imerco-holding-as-merger-with-inspiration-as-subject-to-commitments/>

⁸ The press release for the case can be found at: <https://www.en.kfst.dk/nyheder/kfst/english/decisions/20172909-the-danish-competition-council-has-approved-se-amba-s-merger-with-boxer-tv-as-subject-to-commitments/>

Nykredit's commitment regarding administration margins replaced by new commitments

38. In September 2017, the Danish Competition Council decided, that there was no basis for repealing Nykredit's 2003 commitment regarding a price cap on administration fees on mortgage loans, which is paid to Nykredit in addition to interest on mortgage loans. In addition, the Council has decided that new commitments (commitments A and B) could replace the initial commitment from 2003.

39. The new commitments entail:

- Minor increases in administration fees for some of the existing mortgages in Nykredit Realkredit (commitment A), related to increased costs from external sources. The fees for these customers will remain quite low compared to market levels.
- New mortgage loans issued by Nykredit Realkredit will not be subject to a price cap. For a period of seven years, new customers will instead be guaranteed lower switching costs if Nykredit announces higher administration fees (commitment B). Lower switching costs help improve competition.

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

4.1. Advocacy

40. The DCCAs mission is to secure well-functioning markets and one of the tools to achieve this goal is advocacy.

41. In 2017, the DCCA published a report focusing on competition in the Danish mortgage market which is very large and concentrated. The report launched a number of recommendations to improve competition in the sector. The DCCA also looked into the consumer conditions on 42 markets. A summary of these studies can be found in section 5.

42. Furthermore, two large scale analyses were launched in 2017 and will be published in 2018.

43. The first analysis looks at competition on the market for pensions, and was initiated by the Danish Competition Council. The analysis will shed light on the competition in the market for obligatory occupational pension schemes and individual, private pension savings. The report will draw on experience from Sweden where freedom of choice in relation to the obligatory schemes has been increased. The report will also shed light on the role and significance of insurance brokers on the market.

44. The second analysis assesses to what extent Danish undertakings understand and comply with competition regulation. The report will shed light on undertakings' knowledge of the Danish Competition Act, their motivation to comply with the Danish Competition Act and the values, which the undertakings associate with compliance of the competition rules.

4.2. Communication and knowledge

4.2.1. Podcasts

45. In 2017 Danish Competition and Consumer Authority aired 3 new podcasts available for download on the authority's website⁹. The first podcast is about the concept of cartels, why they are harmful and how the DCCA investigates them. The second podcast is a walkthrough of the report on the mortgage market. The third podcast focuses on deregulation of unnecessarily anti-competitive regulation – and the good examples of when deregulation has had positive effects, i.e. the book market.

4.2.2. Articles / publications

46. Continuing on the initiative taken in 2016 to release short articles on current competition topics, the DCCA released a total of five articles in 2017.

47. The first article¹⁰ was a follow-up to the report on the markets of private chiropractors and physiotherapists, and contains a study of the Swedish reform of the health care sector. The article concludes that the regulation of the Danish practice sector is in line with the Swedish regulation before the reform, and points at possible benefits associated with easing the restrictions for establishment and ownership within the sector for physical therapy and chiropractors.

48. The second article¹¹ describes the possible anti-competitive effects that may emerge, when an undertaking acquires a minority stake in a competitor.

49. The DCCA describes in the third article¹² some of the operational goals for the processing of competition cases. Furthermore, the article sheds light on the most important principles that are being applied in the process of prioritizing such cases.

50. The fourth article¹³ concerns the dental care industry in Denmark, which is regulated *inter alia* by a collective agreement, which imply, that dentists are bound by fixed prices for a number of services, disallowed from granting discounts and limited to owning two dental clinics. In addition, private parties that are not dentists by trade cannot own a controlling share of a dental clinic. The article explains these rules and how they may reduce competition and harm consumers.

⁹ <https://www.kfst.dk/menu/presse/podcasts/>

¹⁰ "Svenske erfaringer med friere rammer i praksissektoren", <https://www.kfst.dk/analyser/kfst/publikationer/dansk/2017/svenske-erfaringer-med-friere-rammer-i-praksissektoren/>

¹¹ "Når konkurrenter ejer (dele af) hinanden", <https://www.kfst.dk/publikationer/kfst/2017/20170615-publikation-minoritetsaktieposter/>

¹² "Prioritering og transparens", <https://www.kfst.dk/publikationer/kfst/2017/20170922-prioritering-og-transparens/>

¹³ "Potentiale for øget konkurrence og besparelser i tandlægebranchen", <https://www.kfst.dk/publikationer/kfst/2017/20171005-potentiale-for-øget-konkurrence-og-besparelser-i-tandlaegebranchen/>

51. The fifth article¹⁴ analyses price formation in the market for prescription medicine. The article concludes, that pricing of prescription medicine (where the patent has expired) in many cases show a pronounced cyclic pattern with large, rapid increases in prices followed by a much slower drop in the price levels, and that this pattern cannot be found in Sweden. The article shows, that significant price hikes typically happens when competition has weakened. The article also concludes that certain aspects of the design of the market may help to explain the cycles. .

4.2.3. Social media

52. In 2017, the DCCA also improved its position on social media. For instance, the DCCA and a number of employees in the authority are active on Twitter. In addition, press releases and reports etc. are also be shared on LinkedIn and Facebook.

53. The DCCA also released a number of videos on current subjects, for instance regarding the report on competition in the Danish mortgage market¹⁵. The efforts to improve awareness also include short animation films, a number of conferences, creating quizzes and publishing consumer information on the authority's consumer portal etc.¹⁶.

4.3. International work

54. Within the framework of the European Competition Network (ECN), the DCCA work closely with the European Commission and other Member States. This includes assisting other Member States with their investigations on an ad hoc basis.

55. On behalf of the Danish Ministry of Business, the DCCA also participated in a number of European Council working groups regarding the ECN+ directive.

56. The close co-operation between the Nordic competition authorities has continued in 2017. In addition to finalizing the Nordic Co-operation Agreement, the authority has also participated in a number of Nordic working groups. The DCCA also takes active part in a number of OECD and ICN initiatives.

4.4. Strengthening competition from the demand-side through behavioural economics

57. In 2017, the Danish Competition and Consumer Authority also launched experiments looking into strengthening competition from the demand-side through behavioural economics.

58. In one lab experiment, it was investigated how the terms and conditions (T&Cs) in online trade could be improved to enable consumers to take T&Cs into account when choosing between products. T&Cs provide the consumer information on a range of

¹⁴ ”Prisrykkel i markedet for receptpligtig medicin efter patentudløb”, <https://www.kfst.dk/publikationer/kfst/2017/20171113-prisrykkel-i-markedet-for-receptpligtig-medicin-efter-patentudloeb/>. The article was written by two guest authors, who are Ph.D. students at Copenhagen University.

¹⁵ See *inter alia* <https://www.youtube.com/watch?v=DpH0UKmxx8k> where the chairman of the Danish Competition Council shares and explains some of the findings of the report on competition in the Danish mortgage market

¹⁶ www.forbrug.dk

important issues e.g. privacy-, transportation- and return policies. Despite their importance, consumers seem to ignore T&Cs, mainly because they can be hard to locate and compare across traders. This reduces competitive pressure on traders to provide their customers with the best overall bargain. The experiment used a novel approach to study consumer behaviour. Biometric data such as eye-tracking and facial expression analysis was used to monitor respondents in real time as they compared products in online trade. Along with these data, traditional questionnaires were used. The analysis demonstrated, that T&Cs constructed to be easy to understand and presented up front to the consumer at the time of purchase, are more visually salient and far easier for the consumer to use. Introducing this design in online trade may increase pressure on traders to compete more regularly on providing better T&Cs

59. In another lab experiment it was investigated how the structure of financial information in mortgage loan offers affects consumer's ability to compare loans across providers. The mortgage market is complex and subject to a vast array of mandatory information disclosure requirements that often result in an abundance of complex and technical information. Using eye tracking and facial expression analysis along with questionnaires it was shown that introduction of a simple and comprehensible front-page to mortgage loan offers improved the visual saliency of key financial information. Moreover the cognitive stress of consumer's comparing documents from different providers was lowered. The ability to identify and report key financial information greatly improved. This experimental study provides insights into how current consumer protection policies can cause problems for consumers, making them passive and hence reduce competitive pressures. The study also provides recommendations to increase the effects from mandatory disclosure of information requirements.

60. In one field experiment it was investigated how price saliency affects young consumers' choice of provider in the market for dental care. Consumers in the market for dental care are often prone to choose service providers based on recommendations from friends and family. While these recommendations may provide valuable information about the levels of service quality they also tend to crowd out price as a parameter for the choice of dentist. The Danish Consumer and Competition Authority partnered with a local municipality to test if more salient and available prices would make consumers more sensitive to prices. The field experiment took advantage of the unique Danish interaction point between state and market. When consumers turn 18, they transition from public to private dental care. The municipality is responsible for this transition. This allowed for the DCCA to inject price information into the existing information about dentist selection. The experiment demonstrated that salient price information greatly increased price sensitivity in a minority of consumers (~15 pct.) and that those consumers chose significantly cheaper dentists relative to a control group that was not exposed to the salient price information.

5. Resources of competition authorities

5.1. Resources overall

5.1.1. Annual budget

61. In 2017 the Danish Competition and Consumer Authority's competition related budget was approximately DKK 83.5 million including overhead [USD 12.66 million].

5.1.2. Number of employees

Table 1.

Total	89
Economists	27
Lawyers	46
Other professionals	12
Support Staff *	4

Note: Including staff servicing the Ministry of Business and Growth

62. The DCCA spends 58 person-years (approximately 70 pct.) on enforcement against anticompetitive practices and mergers. In addition, the DCCA spends 24 person-years (approximately 30 pct.) on advocacy, which includes writing guidelines, preparatory work, international work (i.e. participation in working groups), servicing of the Minister for Industry, Business and Financial Affairs, analyses, etc., see Table 4.2.

5.2. Human resources (person-years) applied to¹⁷:

Table 2.

Enforcement against anticompetitive practices	43
Merger review and enforcement	15
Advocacy efforts	24

5.3. Period covered by the above information

63. The information above covers the year 2017.

¹⁷ The method for calculating the utilization of human resources has been modified from previous years to ensure a truer specification of the authority's resources applied to enforcement. In addition to handling of competition enforcement, enforcement now also includes time spent on appeal of competition cases, cases before the courts, requests for access to information, internal processes regarding case handling, internal sharing of information regarding handling of competition cases and servicing the Danish Competition Council. The change entails that a larger part of the authority's resources is now ascribed to enforcement.

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

6.1. Market study: Competition in the Danish mortgage market

64. In August 2017 the Competition Council published a market study on Competition in the Danish mortgage market.¹⁸

65. The Danish mortgage system has many advantages which include favourable terms for restructuring of debt and relatively low interest rates. This is mainly due to the structure of the Danish mortgage system, where mortgages are financed by the issuing of mortgage bonds with similar attributes (as the loan) on the financial markets. On top of the interest payments the consumer pays additional fees set by the mortgage bank. Since 2009 these fees have risen dramatically.

66. The study found that this increase cannot be attributed to increases in operating costs or expected losses. This is also supported by the fact that earnings have increased significantly compared to historical norms.

67. Overall, regulation has been tightened since the financial crisis and equity costs have increased to a certain extent. However, it is unlikely that the observed increases in fees could have been implemented if the mortgage market had been characterized by effective competition.

68. The Danish mortgage market is concentrated with four providers. This is partly driven by scale effects and both regulatory and non-regulatory barriers to entry and expansion. Direct competition between mortgage providers also appears limited.

69. The mortgage market is also complex for consumers, which may lead to status-quo bias and dependency on professional advisors. There is limited consumer mobility due to switching costs and limited search before signing a mortgage agreement.

70. The market study contained a number of recommendations which may help create more competition in the mortgage market. On the one hand, the recommendations are directed at the regulation of the market, which dampens competition between existing competitors and may serve as entry barriers. A significant part of the regulation aims to ensure financial stability, but in some cases it is designed so that it hinders competition between providers unnecessarily. On the other hand, the recommendations are aimed at ensuring active consumers that supports effective competition to a greater extent

6.2. Market study: Consumer Conditions Scoreboard (2017)

71. In June 2017 the DCCA published a Danish Consumer Conditions Scoreboard based on data from the EU Commission.¹⁹ The scoreboard is based on consumer experiences on 42 markets and covers market transparency; trust in markets; and the markets' fulfilment of the expectations of consumers.

¹⁸ "Konkurrencen på realkreditmarkedet", Konkurrencerådet, august 2017.

¹⁹ Forbrugerforholdsindeks for 42 danske markeder, 2017(<https://www.kfst.dk/analyser/kfst/publikationer/dansk/2017/20170615-forbrugerforholdsindeks/>)

72. A comparison with consumer condition indexes in nine other European countries places the Danish markets in the middle with respect to consumer experiences.²⁰

73. The report also examines consumers' and businesses' awareness of consumer rights. The Danish consumers are more aware of their rights with regard to cancellation; complaints; and non-ordered items than the consumers in the other nine countries. Danish businesses and traders also fare better than their European colleagues.

74. The last chapter of the report revolves around consumer behaviour and behavioural market failures and presents experiments carried out by the European Commission. The experiments show, that the theories and tools of behavioural economics can be used to support active consumer behaviour and consumers' ability to make choices corresponding to their needs. The core insights are about reducing complexity of information; targeting consumers at the appropriate time; and ensuring structures which support active consumer behaviour.

²⁰ The nine other countries are: Sweden, Norway, Finland, Germany, The UK, Italy, The Netherlands, and France.