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COMPETITION COMMITTEE

Annual Report on Competition Policy Developments in Sweden

-- 2020 --

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Sweden

1. Executive Summary

1.1. Anticompetitive agreements

1. Two investigations were concluded with the Swedish Competition Authority (“SCA”) adopting fine orders imposing competition fines on the respective parties, one of which involved horizontal cooperation and the other involved a vertical restraint. Another investigation into suspected anticompetitive cooperation led to a summons application filed by the SCA requesting the court to impose competition fines. An investigation into alleged vertical restraints was closed with binding commitments in a case where the SCA had previously adopted an interim decision.

1.2. Abuse of dominance

2. An investigation into alleged predatory pricing on the market for lawyers’ insurance was closed when it was shown that under the given market conditions, the company did not have a dominant position on any relevant market investigated during the case.

3. In a ruling from the Patent and Market Court of Appeal, the court overturned the SCA’s and the lower court’s decisions that a company had abused its dominant position by revoking an agreement for the use of infrastructure to offer collection and recycling services.

1.3. Mergers

4. During the year, 80 mergers were notified to the SCA. One phase 2 investigation was opened and one case was cleared with remedies in phase 1. No mergers were prohibited.

1.4. Anticompetitive sales activities by public entities

5. In late 2020, the Patent and Market Court issued a decision in favour of the SCA in its action against the municipality of Hässleholm regarding the municipality’s denial of access to land to private companies who wanted to establish and sell fibre connection to end customers.

1.5. Advocacy and competition research

6. In 2020, the SCA submitted 163 replies to official consultations from the government and other public bodies, including a consultation on the adoption of new competences resulting from the implementation of the ECN+ Directive and regarding decision-making powers for antitrust violations.

7. Additionally, the SCA published several reports as part of its advocacy activities. On such report focused on the root causes of corruption and unfair competition in the field of public procurement.

8. In February 2021, the SCA also published the results of a sector inquiry into digital platforms, which investigated competitive conditions on five different digital platform markets and identified areas where measures might be required to improve competition. Among its conclusions, the report identified the need for the introduction of a flexible supplementary framework in Sweden that can be used to investigate and remedy competition concerns that cannot be remedied in an effective manner under current competition law prohibitions.

1.6. Changes to competition law and policies

9. Through legislative amendments prepared during 2020, the SCA was granted decision-making powers for competition fines in March 2021. These amendments came into force at the same time as the implementation of the ECN+ Directive into Swedish law, which among other things resulted in the SCA also being granted the power to impose procedural fines, the power to impose structural remedies, and the power to find that an infringement has been committed in the past without imposing fines.

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

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

10. In Swedish competition law, legislative changes were adopted in order to implement Directive (EU) 2019/1 of the European Parliament and of the Council of 11 December 2018 to empower the competition authorities of the member states to be more effective enforcers and to ensure the proper functioning of the internal market (ECN+ Directive).

11. The adopted amendments resulting from the implementation of the ECN+ Directive include provisions granting the SCA the power to impose procedural fines, the power to impose structural remedies and the power to find that an infringement has been committed in the past without imposing fines. The amendments also include extended powers to seal premises. The cooperation mechanisms within the European Competition Network were also strengthened.

12. Going beyond the scope of the ECN+ Directive, a further amendment was adopted that grants the SCA decision-making powers for issuing competition fines.

2.2. Other relevant measures, including new guidelines

13. Related to the legislative changes mentioned above, the SCA has decided on new general guidelines for immunity from fines and reduction of fines. The SCA's general guidelines on trading prohibitions have been withdrawn, although the SCA's handling of such matters is unchanged and the guidelines will be replaced by guidance in another form. The SCA is also currently working on a review of its method for calculating competition fines.

14. Due to the abovementioned new rules and its extended competences, the Swedish Competition Authority has undertaken comprehensive work to review internal routines and methodologies. In addition to the already broad range of robust quality assurance measures in place, the SCA has introduced even further procedural safeguards. A new function, separate from the case teams, has been introduced that is responsible for issues of due process. Another function has been introduced to offer an independent perspective on investigations, offering a fresh pair of eyes completely separate from the case team and

reporting directly to the Director General. The SCA has also introduced internal deadlines that aim to further streamline its investigative operations and to inform investigated companies about its decisions more quickly.

2.3. Government proposals for new legislation

15. The EU Directive on unfair trading practices in the agriculture and food supply chain will be transposed into Swedish law in 2021. A recent government bill proposes that the SCA will be designated as the relevant enforcement authority in Sweden, which will result in an expansion of the SCA's competencies and entail a new unit being established.

3. Enforcement of competition laws and policies

3.1. Action against anti-competitive practices, including agreements and abuses of dominant positions

3.1.1. Summary of activities of the SCA

Anti-competitive agreements and abuse of dominant position

16. In 2020, the SCA closed nine prioritised competition investigations into suspected infringements of 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).

17. Two investigations ended with the SCA imposing fine orders on the respective parties, one of which involved horizontal cooperation and the other involved a vertical restraint. Another investigation into suspected anticompetitive cooperation led to a summons application filed by the SCA requesting the court to impose competition fines. One of the investigations was closed with binding commitments.

Tip-offs and complaints

18. During 2020, the SCA received 639 competition-related tip-offs and complaints from companies, customers and consumers, which is roughly in line with levels in previous years. This number does not include leniency applications.

3.1.2. Description of significant cases, including those with international implications

Horizontal agreements

Dairy products

19. In December 2020, the SCA filed a summons with the Patent and Market Court against one of two companies that are suspected of having exchanged information in the course of procurement proceedings regarding dairy products. The company had applied for leniency during the course of the SCA's investigation, but the SCA deemed that the conditions for leniency were not fulfilled. However, the amount of competition fines that the SCA has requested in its summons has been reduced by half to take account of the fact that the company has assisted the SCA's investigation. The other undertaking was declared bankrupt during the investigation (Ref 6/2017).

Furniture branch

20. The SCA investigated a suspected anticompetitive agreement between companies that operate in the furniture market. The SCA's investigation showed that two retailers of interior decoration, furniture and design products agreed on, or coordinated through concerted practices, their prices for products of a specific brand. The companies had also exchanged information about their pricing of products. In June 2020, the companies agreed to pay competition fines by accepting a fine order from the SCA (Ref 117/2017).

Professional hair care products

21. The SCA investigated a suspected anticompetitive agreement between seven companies that sell professional haircare products to hairdressing salons and retailers. The SCA's initial suspicion was that the companies had agreed to prevent another company from entering the market for professional hair products and neighbouring markets or at least to obstruct their access. The SCA closed its investigation in September without taking any action after the SCA found that it was not shown that an anticompetitive cooperation had taken place (Ref 232/2019).

Vertical agreements

Lighting products

22. The SCA investigated a suspected anticompetitive agreement between a wholesaler of home and Christmas lighting products and its respective retailers. The SCA found that the wholesaler had required those retailers to raise the price that end customers would pay for their products regarding sales both in shops and via e-commerce. The SCA adopted a fine order after the wholesaler agreed to pay competition fines (Ref 59/2019).

Training services

23. In December 2019, the SCA had adopted an interim decision prohibiting a company that sells training services to consumers via a mobile app from applying exclusive agreements with its fitness studio partners. The SCA found that the application of exclusive agreements was likely to constitute a violation of the competition rules. The SCA noted that there were particular grounds to prohibit the company from applying such agreements while the investigation was ongoing.

24. The Patent and Market Court rejected the undertaking's appeal of the SCA's interim decision in early 2020. Subsequently, the Patent and Market Court of Appeal did not give leave to appeal. The company then submitted voluntary commitments to limit the application of exclusivity agreements with training facilities. The SCA made the assessment that the commitments were sufficient to avoid anticompetitive effects on the market during the period of the commitments, and thus decided to accept these commitments in July 2020 (Ref. 572/2019).

25. In 2019, the SCA had also initiated parallel investigations into whether similar exclusive agreements used by other companies in the industry may be in violation of the Swedish Competition Act. (Refs 749/2019 and 750/2019) but closed the investigations without taking any action. The SCA found that the companies' actions did not affect competition to such an extent that it was justified to continue the investigations.

Musical instruments

26. As reported in last year's annual report, the SCA investigated an alleged anticompetitive cooperation between companies active in the sale of music instruments. As the investigation did not confirm suspicions of anticompetitive coordination of retail prices of musical instruments and their accessories between retailers, manufacturers and distributors under competition law, the SCA closed the investigation without taking any further action in February 2020 (Ref. 187/2018).

Abuse of a dominant position

27. The SCA opened an investigation in 2019 regarding alleged predatory pricing on the market for lawyers' insurance. In November 2020, the SCA closed the case without taking any action, as it was shown that under the given market conditions, the company did not have a dominant position on any relevant market investigated during the case (Ref 446/2019).

28. The SCA also investigated whether a company on the market for gambling services infringed the rules on the abuse of a dominant position. In March 2020, the authority closed this investigation without taking any action (Ref. 128/2019).

Anticompetitive sales by public entities

29. As reported in last year's annual report, the SCA closed an investigation into the City of Gothenburg's handling of payment solutions for parking services after it concluded that the extent of the competitive effects of the public operations in question did not justify continuing the investigation (Ref 304/2018 and 327/2018).

30. Another case brought against the municipality of Hässleholm resulted in the Patent and Market court upholding the SCA's claim of anticompetitive sales activities. This case is discussed further in the section 2.1.3 summarizing activities of the courts.

3.1.3. Summary of activities of courts

Anti-competitive agreements

Training services

31. The SCA's interim decision prohibiting a company that sells training services to consumers via mobile app from applying exclusive agreements with its fitness studio partners (see above) subsequently became the subject of court proceedings. In January 2020, the Patent and Market Court decided to reject the company's appeal against the SCA's decision. In February 2020, the Patent and Market Court of Appeal decided not to grant leave to appeal (SCA's reference numbers 572/2019 and 788/2019).

Abuse of dominant position

Svenska Förpacknings- och Tidningsinsamlingen AB

32. As reported in last year's annual report, the SCA received a complaint in 2016 that Svenska Förpacknings- och Tidningsinsamlingen AB (FTI) had allegedly abused its dominant position. FTI arranges the collection and recycling of household packaging waste on the assignment of producers, and operates the only Sweden-wide and public infrastructure for collection of packaging waste from households. TMRresponsibility AB

had an agreement with FTI to use its infrastructure to offer collection and recycling services in competition with FTI. In June 2016, FTI gave notice of termination of the agreement.

33. In February 2018, the SCA adopted an infringement decision against FTI for having abused its dominant position. The company was ordered to revoke the termination of the contract and the decision came with a penalty of SEK 20 million in the case of non-compliance. The company appealed this decision to the Patent and Market Court, which rejected the appeal and upheld the SCA's decision in January 2019. However, in early 2020 the Patent and Market Court of Appeal overturned the judgement made by the first instance court. The appeal court found that FTI held a dominant position, but that no abuse of that dominant position had been established. (SCA Ref. 583/2016 and 148/2018)

Anti-competitive sales activities by public entities

Municipality of Hässleholm

34. In September 2017, the SCA submitted an application to the Patent and Market Court to request that the court order the municipality of Hässleholm to cease denying private companies access to the municipality's land by not granting land agreements and permits for the laying of fibre-optic cables. The summons application was combined with a request of a penalty payment of SEK 25 million in the event of non-compliance.

35. In March 2019, the Patent and Market Court upheld the SCA's claim and prohibited the municipality from denying access to land to private companies wishing to establish and sell fibre connections to end customers in Hässleholm municipality, as well as from applying practices that have a similar effect.

36. The municipality then appealed the judgement to the Patent and Market Court of Appeal, which in early 2020 ruled that the first instance court's judgement was unclear and open to different interpretations. According to the appeal court, it was unclear which practices were prohibited. The appeal court therefore referred the case back to the Patent and Market Court, which had to render a new judgment.

37. After a further main hearing, the Patent and Market Court issued a new decision in December 2020 confirming that the municipality is prohibited from refusing, categorically and without any individual examination, private companies access to municipal land in order to lay fibre-optic cables for broadband. The municipality's conduct was therefore found to have distorted and impeded competition in the market. The Patent and Market Court's decision was not appealed (SCA Ref 749/2015 and 469/2017).

3.2. Mergers and Acquisitions

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

38. As of 1 January 2018, the SCA has been competent to prohibit mergers that are harmful to competition, instead of having to raise an action in the courts. During the year, 80 mergers were notified to the SCA. One phase 2 investigation was opened and one case was cleared with remedies in phase 1. No mergers were prohibited.

39. The following table shows statistics for the period 2016-2020:

Table 1.

	2020	2019	2018	2017	2016
Notified mergers	80	74	80	80	74
Of which the SCA requested on particular grounds	0	1	0	0	0
Of which voluntary notifications	1	4	1	2	2
Number of decisions to launch a phase 2 investigation	1	4	1	2	4
Number of decisions to clear a case with remedies	1	1	1	0	0
Number of cases where the SCA raised an action in court to prohibit a merger ¹	-	-	-	0	2
Number of cases where the SCA has adopted a prohibition decision. ²	0	1	0	-	-

3.2.2. Summary of significant cases

Arla Foods AB, Norrmejerier och Falköpings Mejeri – Svensk Mjök AB

40. As reported in last year's annual report, the SCA decided in 2019 to prohibit Arla Foods AB, Falköpings Mejeri and Norrmejerier's proposed acquisition of joint control over Svensk Mjök AB. The SCA found that the merger would significantly impede effective competition with regard to the well-known Swedish cheese brands Präst, Herrgård and Grevé. The SCA's decision was appealed to the Patent and Market Court, but obstacles arose to the implementation of the merger as a result of an arbitration decision. As a consequence, the court found that there was no concentration under the competition rules, and the case was dismissed with no ruling made in substance. The court's decision was appealed, but only so far the litigation costs were concerned. The Patent and Market Court of Appeal subsequently ruled in April 2020 that the parties were entitled to reimbursement of litigation costs. (Ref. nos. 661/2018 and 354/2019)

Easypark AB – Inteleon Holding

41. The acquisition of Inteleon Holding by Easypark AB was not subject to a mandatory notification, as Inteleon's turnover was below 200 million in 2018. Nevertheless, in October 2019, the SCA decided that there were particular grounds that justified a decision to order notification. (Ref. 530/2019). As the companies' joint market share was high, there were concerns that the merger could have anticompetitive effects, and the SCA initiated a phase two investigation in December 2019. Based on an overall assessment of the results of the investigation, the SCA decided to clear the merger without taking any further action in March 2020 (Ref 698/2019).

Gasum Oy – Lidingö Clean Gas Solutions Holding AB – Nauticor KG

42. In 2020, the SCA also investigated the acquisition of Lidingö Clean Gas Solutions Holding AB and Nauticor KG by Gasum Oy. After the SCA informed the parties about concerns that the merger could negatively affect competition, Gasum submitted commitments. The SCA made the assessment that the commitments were sufficient for the merger not to significantly impede competition in the market and decided to close the case. The decision was combined with a penalty of SEK 400 million in the event of non-compliance with the commitments (Ref 7/2020).

¹ Prior to decision-making powers for the SCA being granted on 1 January 2018

² After decision-making powers for the SCA being granted on 1 January 2018

Orifarm Generics Holding A/S – Takeda Pharmaceuticals International AG

The SCA investigated the acquisition by Orifarm Generics Holding A/S of certain assets from Takeda Pharmaceuticals International AG. Even though the merged entity would end up having high market shares in the markets for certain medicinal products, the SCA found that Orifarm would nonetheless have limited possibilities to raise prices after the merger. Therefore, the SCA cleared the merger (Ref 470/2020).

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

43. One of the SCA's tasks is to identify obstacles that may restrict or distort effective competition in public and private operations. The SCA presents proposals with the aim of opening up markets to competition, initiating regulatory reforms, as well as monitoring developments within the area of competition. The SCA makes proposals for improving competition in reports, responses to official consultations and official communications to the Swedish Government. The SCA also provides comments and opinions to other public authorities that seek the SCA's views on a particular investigation or changes to the regulatory framework.

4.1.1. Reports

Report on corruption and unfair competition in public procurement

44. In March 2020, the SCA published a report that deals with the root causes of corruption and unfair competition in the field of public procurement. The report draws the conclusion that the lack of monitoring of companies' compliance with concluded contracts is one of the biggest risks leading to corruption or unfair competition. Family ties and relations based on friendship between employees and bidders were identified as further possible sources of corruption. More than two thirds of purchasers mentioned that they would need more information and knowledge on how bidding cartels can be prevented and discovered (Report 2020:1).

10 years with the provisions on anti-competitive sales operations – the sales of municipalities in the focus

45. The report showed that companies have experienced an improved competitive situation with respect to the operations of municipalities and private companies compared to when the rules were first introduced (Report 2020:2).

Report on the SCA's competition and public procurement supervision in 2019

46. In March 2020, the SCA published a report accounting for the authority's strategic priorities, investigations and decisions in 2019 regarding competition enforcement and public procurement supervision. Among other things, the report includes qualitative and quantitative assessments of investigations, decisions, appeal outcomes, case handling times and resource allocation. The enforcement report is an important tool for promoting transparency and communicating the results of the SCA's work with stakeholders (Report 2020:3).

The procurement of health care professionals by municipalities – a follow-up of developments since 2015

47. The report shows that many regions have the same difficulties in finding staff (such as medical professionals) for their healthcare centres as those that the SCA wrote about in a previous report 5 years earlier. The need of the regions to hire locum healthcare professionals has increased. Furthermore, the problems with recruitment and the need to hire locum professionals have spread to other groups of professions, especially nurses (Report 2020:4).

Digital platforms and the potential changes to competition law at the European level

48. In September 2020, the Nordic Competition Authorities published a joint memorandum with the title “Digital platforms and the potential changes to competition law at the European level”. The report aimed to provide a contribution to the ongoing discussion about digital platforms – both regarding the application of EU competition law to platforms and regarding new regulatory initiatives. The Nordic competition authorities underlined the importance of the coherent application of competition law and emphasized the value of an open and transparent application of these rules.

4.1.2. Sector Inquiries

49. In November 2019, the SCA launched a sector inquiry into the functioning of competition on digital platforms in Sweden. The purpose of this study was to highlight the extent of competition and to identify any potential need for measures to promote competition. In February 2021, the results of this study were published in a report. Among its conclusions, the report identified the need for the introduction of a flexible supplementary framework in Sweden that can be used to investigate and remedy competition concerns that cannot be remedied in an effective manner under current competition law prohibitions (Ref 627/2019).

4.1.3. Responses to official consultations

50. In 2020, the SCA issued 163 responses to official consultations (115 of which were requested by the Swedish government and 48 by other public authorities). By providing opinions on proposals made in reports and other inquiries, the SCA can assist the Government and other authorities in the preparation of proposed legal amendments and decisions. Below is a section of the SCA’s responses to official consultations in 2020.

The powers of the Swedish Competition Authority

51. The SCA responded to a consultation on proposals to achieve a more effective competition enforcement. The SCA underlined that an effective and strong enforcement is important to ensure well-functioning competition in the digital and international environment that companies operate in. The SCA emphasized specifically that the new possibilities to impose sanctions for non-compliance with investigative measures would give companies more incentives to contact the SCA. The SCA also welcomed the proposal to be granted the power to adopt decisions in antitrust cases, as this would make case-handling more effective and strengthen the deterrent effect of competition enforcement (Ref 122/2020).

Whistleblower Directive

52. Regarding the EU Whistleblower Directive that is to be implemented by national legislation, the SCA welcomed the strengthened protection for those persons that report violations. The SCA also endorsed the proposal that it should be chosen as the competent authority to receive and follow up reports in the field of competition law and public procurement (Ref 408/2020).

Directive on unfair trading practices in the agriculture and food supply chain

53. The SCA also commented on a proposal considering the implementation of the EU directive on unfair trading practices in the agriculture and food supply chain. The SCA expressed the view that an implementation going beyond the requirements regulated in the directive needed further examination and consideration, and that both suppliers and buyers in the food market are to a great extent active in international markets. The SCA agreed with the assessment that there is no need to increase the number of forbidden trading practices in Sweden, nor make prohibition mandatory for more trading practices, considering that this would imply further limitations to the freedom of contract (Ref 707/2019).

4.1.4. Research

54. The SCA has a mandate from the Swedish Government to grant funding for research related to competition and public procurement. In 2020, the Government's letter of appropriation allocated approximately SEK 11 million to conduct such research. The SCA primarily finances research within competition and procurement law and economics. As part of its activities, the SCA also arranges conferences, seminars and workshops with the aim of presenting information about the research and its findings. In addition to this, the SCA organizes an essay competition for students each year.

Projects that received funding in 2020

55. In 2020, the SCA did not advertise any new research funding, but granted SEK 7.1 million to twelve of 22 ongoing projects.

56. The following is an account of ongoing research projects in the area of competition law and economics.

Ongoing competition-related research projects

- Marcel Garz, Media competition and media slant in Swedish newspapers
- Thomas Broberg, Competition for garbage – an analysis of the market for waste incineration
- Catarina Marvao, Cartel, Managerial Incentives and Merger and Acquisitions

Commissioned research

57. The SCA commissions research when it sees a direct need to investigate or highlight specific issues within competition and/or procurement. The results are then published in a special report series for commissioned research. The SCA assigns a reference group to each project to provide quality assurance for the study. The reference groups consist of individuals with special expertise in the field in question. The SCA's ambition is for the reports to be founded on solid academic grounds and to be written in such a way

that non-specialists can also understand the content. In 2020, a total of SEK 2.9 million was allocated for commissioned research within the fields of competition and procurement.

58. In 2020, the SCA published the following commissioned research reports on competition:

- Tage Alalehto & Daniel Larsson (2020): *The moral economy of cartel crimes* (Commissioned research report series 2020:3)
- Stefan Larsson (2020): Data economies – About platforms, third party actors and the need for transparency in digital markets (Commissioned research report series 2020:4)

Council for Research Issues

59. The SCA has a designated Council for Research Issues, which consists primarily of external academic researchers within the fields of economics, law and business administration. The Council's task is to stimulate research in the fields of competition and procurement, and to provide the SCA and the National Agency for Public Procurement with findings from developments, primarily in the economic and legal sciences, which may be of significance to the agencies' activities.

4.1.5. Conference on the “Pros and Cons of presumptions”

60. To share and advance knowledge about current competition-related matters, the SCA holds an annual international research seminar entitled “Pros and Cons”. Since the first seminar in 2002, researchers and experts have discussed the pros and cons of compelling questions in the field of competition law. The theme of the 2020 seminar, which was held on 6 November, was “Pros and Cons of Presumptions”. Around 100 researchers, academics, lawyers and representatives of competition authorities participated in this event.

4.1.6. Essay contest

61. In an effort to promote 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 activities of the SCA. In 2020, there were 21 entries submitted, and six of these were awarded prizes, sharing a total of SEK 100,000.

4.2. Communication and knowledge

62. Part of the SCA's task is to promote competition and provide appropriate information for companies and other stakeholders regarding important decisions, implementation of the rules and the content of these rules.

4.2.1. Ongoing focus on digital communication

63. The SCA continued to prioritize digital communication throughout 2020. It communicated via its website, through digital newsletters, podcasts and social media, through traditional media, meetings and industry forums, and in several different arenas both in Sweden and internationally.

Internal communication

64. Due to the outbreak of the COVID-19 pandemic, the majority of the SCA's employees have entirely transferred to teleworking and have conducted all meetings digitally. On our intranet, we created a separate page on which we collected and made all

Covid-19 related information accessible for employees. Collaboration spaces in the intranet have facilitated our possibilities to work together on projects.

Development of a new homepage

65. As one part of ongoing digitalization efforts at the authority, we are in the course of developing a new homepage. It shall become easier to submit tip-offs and to get informed about our cases and decisions. We have the ambition that readers should also have the possibility to deepen their knowledge about specific topics in the area of competition law or public procurement. The new homepage should also live up to the requirements stipulated in the law on accessibility of digital public services. The launching of the new homepage is planned for spring 2021.

Social media

66. We regularly utilize social media and complementary channels to convey news and create interest and engagement regarding issues and topics related to our areas of operation. The SCA has accounts on Twitter, LinkedIn, Facebook and Youtube. Regarding webinars and live broadcast conferences, we have increased the production of moving picture material published in our intranet and our social media channels, such as LinkedIn.

Electronic newsletter: Procurement and competition

67. During the year, the SCA has continuously published a newsletter that addresses both public procurement and competition issues. The newsletter is published bi-weekly, and provides almost 1700 subscribers with up-to-date information. In 2020, 23 editions of the electronic newsletter were sent out.

Podcasts

68. As part of its efforts to develop and refine its digital communication, the SCA continued to develop its podcast throughout 2020. The podcast, which has the title "Konkurrenten" (The Competitor), addresses relevant competition and procurement-related issues. A total of seven new episodes were published in 2020. In addition to the participation of staff from the authority, the SCA has on several occasions invited external guests to participate in the podcast interviews.

Interactive guidance

69. The SCA's interactive digital guidance is an effective way to provide a target audience with help and support on various issues. The guidance promotes a better understanding of rules and regulations and is greatly appreciated by its users. The SCA's digital guidance package is accessible on its website and includes guidance on distribution agreements, anti-competitive sales activities by public entities, direct award contracts, collaboration in the public procurement process as well as guidance for industry associations.

Web-based question forum

70. Questions and complaints to the SCA are primarily submitted via the SCA's tip-off function. To make it easier for the SCA's target audience to find the right answers to its questions, the SCA has developed a web-based question forum. In addition, the SCA operates an anonymous online whistleblower tool.

4.3. International work

4.3.1. ECN

71. Within the European Competition Network (ECN), the SCA works closely with the European Commission and the competition authorities of the EU member states in the application of Articles 101 and 102 of the TFEU. The national competition authorities are obligated to consult the Commission before reaching decisions under Articles 101 and 102 of the TFEU. In 2020, the SCA consulted with the Commission on four such matters.

4.3.2. Co-operation on merger control

72. During 2020, the SCA participated in five meetings organised by the Advisory Committee on mergers regarding the Commission's merger control procedures. In addition, the national competition authorities and the Commission have a special working group that is tasked with promoting greater co-operation in merger review. In 2020, the SCA took part in two meetings organised by this working group.

4.3.3. EU competition policy

73. Throughout the year, the SCA actively participated in discussions on the future of EU competition policy. The SCA took part in, among others, the Commission's review of the rules dealing with horizontal agreements, the Motor Vehicle Block Exemption Regulation and the Commission's Market Definition Notice.

74. The SCA also contributed to discussions within the ECN regarding the ongoing review of the Vertical Block Exemption Regulation and the respective guidelines, considering that the Commission in December 2020 initiated a consultation on various revision proposals, and is expected to publish a draft of a revised Vertical Block Exemption Regulation and guidelines in 2021.

75. The SCA also participated in a consultation by the Commission regarding its proposal of a new competition tool and an ex ante regulation for very large platforms acting as gatekeepers, which were proposed as a way of remedying structural competition problems that cannot be handled effectively by the existing competition rules. In December 2020, the Commission published a draft of a legal instrument that contains various aspects of the proposals.

76. The SCA also provides comments to the Swedish government on international competition and procurement policy measures. During 2020, the SCA took part in consultations organized by the Swedish government regarding the EU's industrial policy and the Commission's proposal of an international public procurement instrument. In August 2020, the SCA submitted comments to the Swedish government regarding a European Commission White Book regarding potential new tools that aim to remedy anti-competitive effects caused by foreign subsidies. In November 2020, the SCA submitted a written contribution to the European Commission and to the Swedish government regarding EU competition policy and the Commission's Green Deal.

4.3.4. Nordic cooperation

77. The Nordic competition authorities have enjoyed close cooperation for many years. In September 2017, a new Nordic co-operation agreement was signed by the competition authorities in Denmark, Finland, Greenland, Iceland, Norway and Sweden. The new agreement enhances the Nordic competition authorities' ability to collect information on behalf of each other, for example, through dawn raids, and to exchange information in

conjunction with investigations. After Iceland ratified the agreement in 2020, the agreement is now in force in all Nordic countries.

78. In 2020, a number of physical meetings had to be cancelled due to the Covid-19 pandemic. However, the Nordic director generals held digital meetings several times during the year to discuss strategic questions.

79. Nordic cooperation also takes place within special working groups. In November 2020, the meeting of the Nordic cartel network, whose members are Nordic competition authority employees working specifically with cartel investigations, was held digitally. The SCA also hosted a digital Nordic workshop on the question of the calculation of fines.

80. In September 2020, the Nordic competition authorities published a joint report on the Nordic perspective on digital platforms and the potential changes to competition law at the European level (see section 3.1.1 above).

4.3.5. OECD

81. In 2020, the SCA participated in two digitally arranged meetings of the OECD Competition Committee. During the year, the SCA submitted one written contribution on economic analysis in merger cases. In June 2020, the SCA's employees held a presentation on methods to detect bidding cartels during the OECD Competition Committee's digital meeting. The SCA's employees also gave a presentation in an OECD workshop with a focus on vertical mergers and vertical restraints. The SCA also actively participated in the OECD Competition Committee's work in drafting two new recommendations on competitive neutrality and transparency and procedural fairness in competition law enforcement.

4.3.6. International Competition Network

82. The SCA actively participates in the International Competition Network's (ICN's) five working groups. Since April 2018, the SCA has been co-chair of the Agency Effectiveness Working Group (AEWG). In 2020, the SCA shared the co-chair roll with the Competition and Consumer Commission of Singapore and the Competition Authority of Botswana. In March 2020, the SCA arranged a webinar on digital case teams and agency effectiveness. Within the framework of this working group, the SCA has also led a project on digitalization and innovation aimed at exploring the experiences of competition authorities with regard to the digitalization of agency operations. The SCA arranged a webinar on this topic in March 2021.

83. During the digitally held ICN Annual Conference, the SCA's Director General took part in a panel discussion on competition advocacy in the digital era.

5. Resources of the SCA

5.1. Resources overall (current numbers and change over previous year)

5.1.1. Annual budget (in SEK and USD)

- 2019: SEK 153 million / USD 16.4 million, including public procurement supervision.³

³ Exchange rate at 2019-12-31

- 2020: SEK 155.4 million / USD 18.9 million, including public procurement supervision.⁴

5.1.2. Number of employees (person-years)

84. The average number of employees during 2020 was 168, while the number of full-time equivalent employees was 144. Of these, 110 worked on competition issues, and more specifically 98 as non-administrative staff. Among the non-administrative competition staff, there were 54 lawyers, 33 economists and 11 with other types of functions.

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

5.2.1. Enforcement against anticompetitive practices / merger review and enforcement

85. 89 Non-administrative staff working with competition issues (relevant staff in the Cartels and Mergers Unit, Market Abuse Unit, Communications and IT Unit, Legal and International Affairs Unit, Litigation Unit, and Chief Economist's Unit).

5.2.2. Advocacy efforts

86. Nine non-administrative staff working with competition issues (relevant staff in the Advocacy and Research Unit).

5.3. Period covered by the above information

87. 2020.

⁴ Exchange rate at 2020-12-31