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Private Enforcement of Competition Law – Note by Sweden

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Sweden

1. Introduction

1. This contribution provides a brief overview of selected aspects of Swedish legislation and case law relating to the private enforcement of competition law. The contribution is organised into two key sections. The first section describes the rules governing actions for damages based on a prior authoritative competition law decision ("follow-on actions") as well as standalone actions for damages, and provides a non-exhaustive list of certain notable rulings. The second section focuses on a second avenue for private enforcement available in Sweden, namely civil actions for court injunctions following an administrative decision not to take enforcement action against a certain conduct.[1]

2. Damages Actions

2. The first aspect of private enforcement in Sweden concerns actions for damages arising from infringements of competition law. Such actions are brought before the Patent and Market Court, a specialised division within the Stockholm District Court.[2] Appeals are heard by the Patent and Market Court of Appeal, which forms part of the Svea Court of Appeal. In exceptional circumstances, the Patent and Market Court of Appeal may permit a further appeal to the Supreme Court in a case where it is necessary to provide further legal guidance on the application of the law.[3]

3. The Swedish court system underwent significant reform in 2016 with the establishment of the Patent and Market Courts. Prior to that reform, competition damages claims could be brought before the Stockholm District Court and appealed to the Svea Court of Appeal. Such claims could also be brought before other Swedish district courts pursuant to the ordinary rules on jurisdiction, with appeals heard by the competent regional court of appeal.

4. Since 2016, the Swedish Competition Damages Act has provided the substantive rules governing actions for damages arising from infringements of competition law. The Act implements the EU Damages Directive.[4] Chapter 5 of the Act contains procedural provisions relating to, inter alia, the disclosure of evidence. Relevant procedural rules are also found in the Swedish Code of Judicial Procedure, in particular Chapters 38 (documentary evidence) and 41 (preservation of evidence for the future), as well as in the Public Access to Information and Secrecy Act. Another potentially relevant piece of

[1] The paper does not address issues relating to arbitration. On competition law issues in arbitration, see the Supreme Court's judgments in, for example, NJA 2015 p. 438 ("Systembolaget") and NJA 2008 p. 120 ("Ystad Hamn").

[2] Chapter 5, Section 1 of the Competition Damages Act (konkurrensskadelag, 2016:964).

[3] Chapter 1, Section 3, third paragraph of the Swedish Patent and Market Courts Act (lag, 2016:188, om patent och marknadsdomstolar).

[4] Directive 2014/104/EU of the European Parliament and of the Council of 26 November 2014 on certain rules governing actions for damages under national law for infringements of the competition law provisions of the Member States and of the European Union.

legislation is the Group Proceedings Act, however to the Swedish Competition Authority's (SCA) knowledge, no competition damages action has been brought under that Act.

2.1. Swedish case law on competition damages

5. The following is a non-exhaustive list of certain standalone and follow-on competition damages actions ruled on by the Swedish courts. There have also been a number of cases that were settled during the course of the proceedings whose terms have not been made public.

6. Two noteworthy damages cases are *Tele2 v. Telia*[5] and *Yarps v. Telia*[6], connected to abuse of dominance proceedings brought by the SCA against the incumbent telecom operator TeliaSonera that led to a finding of margin squeeze.[7] Both cases were decided under the legal framework that applied prior to the entry into force of the Competition Damages Act,[8] as the claims arose before the Act entered into force.

7. In the respective actions brought by Tele2 and Yarps, the claimants alleged that Telia had infringed Article 102 TFEU and the corresponding provision of Swedish competition law. However, the Svea Court of Appeal dismissed both damages claims.[9] In *Yarps v. Telia*, the court found that Yarps had failed to substantiate its claim that Telia had abused its dominant position in the relevant wholesale market during any period covered by the action. In *Tele2 v. Telia*, the court found that Telia had abused its dominant position through a margin squeeze capable of producing exclusionary effects, but concluded that Tele2 had failed to establish that the infringement had caused the harm alleged by Tele2.

8. Two other standalone cases decided by the Patent and Market Court of Appeal may also be mentioned. As was the case in *Tele2* and *Yarps*, the Competition Damages Act was not applicable since the claims arose before the Act entered into force.

9. *Telesport v. Telia et al*.[10] concerned, inter alia, an alleged vertical anti-competitive agreement or concerted practice between TeliaSonera and Svea Billing in the Swedish telecommunications market. The Patent and Market Court of Appeal dismissed the claim, holding that claimant Telesport had failed to establish either that an agreement had been concluded or that a concerted practice had occurred.

10. In *Net at Once v. Göteborg Energi Gothnet*[11], the claimant alleged that the municipal company Göteborg Energi Gothnet had abused a dominant position by applying certain prices and contract terms. The Patent and Market Court of Appeal found that the

[5] Judgment of the Svea Court of Appeals of 21 December 2017 in case no. T 5365-16.

[6] Judgment of the Svea Court of Appeals of 29 June 2017 in case no. T 2673-16.

[7] The SCA's proceedings against Telia involved a preliminary ruling from the EU Court of Justice, see case C-52/09, *TeliaSonera Sverige*, ECLI:EU:C.2011:83.

[8] Section 33 of the 1993 Swedish Competition Act.

[9] See section 2 above regarding the courts having jurisdiction over competition damages actions and the court reform of 2016. Both cases were governed by the legal framework that applied before the entry into force of the Competition Damages Act and were therefore litigated under the substantive and procedural rules applicable at the time.

[10] PMÖD 2021:23.

[11] PMÖD 2019:29.

claimant had failed to establish that the company held a dominant position and dismissed the claim for damages.

11. An older standalone case in which a claim for damages was at least partially successful is *Europe Investor Direct et al. v. Euroclear Sweden*,[12] decided by the Svea Court of Appeal in 2011 (i.e .before the Damages Directive was enacted). The claimant alleged that the dominant undertaking (Euroclear), which at the time was the sole central securities depository in Sweden, had either refused to provide shareholder registers or, alternatively, charged excessive prices for giving access to them. The court upheld the lower court's finding that the dominant undertaking's conduct constituted an unjustified refusal to supply and therefore an abuse of dominant position under both Article 102 TFEU and the corresponding provision of Swedish competition law. However, the court reduced the amount of the damages awarded by approximately 50 per cent.[13]

12. The recent Swedish case of *PriceRunner v. Alphabet/Google*[14] concerns a competition damages action brought by PriceRunner (now part of the Klarna group), a price comparison service headquartered in Sweden and also operating in Denmark and the United Kingdom, against Google following the European Commission's *Google Shopping* case.[15] The case was partly a follow-on action and partly a standalone action.

13. In July 2026, the Patent and Market Court held that Google was liable to pay competition damages to PriceRunner for harm caused by Google's abuse of dominant position, consisting of the preferential treatment of its own comparison-shopping service. The court found that PriceRunner had suffered compensable harm in the United Kingdom, Denmark and Sweden. Although PriceRunner's claim was only partially successful, the company was awarded damages together with accrued interest amounting to approximately SEK 14.3 billion.[16] This is by far the largest award of competition damages in Swedish legal history. While PriceRunner succeeded on several central issues, including the existence of harm and the duration of the infringement, the court reduced the amount claimed and dismissed certain parts of the action as time-barred.[17] The case has been appealed by both PriceRunner and Google to the Patent and Market Court of Appeal.[18]

[12] Judgment of the Svea Court of Appeals of 19 January 2011 in case no. T 10012-08.

[13] From SEK 1,700,000, 1,100,000 and 1,100,000 awarded by the District Court, to SEK 800,000, 550,000 and 550,000 in the Court of Appeal.

[14] Judgment of the Patent and Market Court of 1 July 2026 in case no. PMT 1860-22, *Klarna Technologies v. Alphabet et al*.

[15] Commission Decision C(2017) 4444 final of 27 June 2017 relating to proceedings under Article 102 TFEU and Article 54 of the EEA Agreement (Case AT.39740 – *Google Search (Shopping)*), and the final ruling of the Court of Justice in Case C-48/22 P, *Google and Alphabet v Commission (Google Shopping),* ECLI:EU:C:2024:726.

[16] PriceRunner had sought damages of the equivalent of around SEK 64 billion and SEK 14 billion in accrued interest.

[17] Part of the claim was deemed to have been brought too late, and PriceRunner would not receive compensation for ongoing harm during the period after the abuse was alleged to have ceased, see the Patent and Market Court's press release: https://www.domstol.se/nyheter/2026/07/google-is-to-pay-damages-to-pricerunner/

[18] Case PMT 11893-26.

3. Civil actions for court injunctions

14. A second aspect of private enforcement in Sweden is that affected parties may bring an action before the Patent and Market Court seeking an injunction against conduct that infringes the competition rules. Injunctions ordered by the court can be made subject to conditional fines for non-compliance.

15. Chapter 3, Section 2 of the Swedish Competition Act provides that if the SCA decides in a particular case not to impose an obligation on an undertaking to terminate an infringement of any of the prohibitions laid down in Article 101 or 102 of the Treaty on the Functioning of the European Union (TFEU) or the corresponding provision of Swedish competition law, an undertaking affected by the infringement may bring an action seeking such an injunction before a court.[19] The right to seek injunctions is therefore dependent on the SCA having decided not to take enforcement action against the practice that the claimant alleges infringes competition law.

16. Private litigation of this kind is not uncommon in Sweden, and cases decided in favour of the private claimants are discussed briefly below. Prior to the court reform of 2016, prohibition actions could be appealed to the Market Court. Following the reform, such cases are now heard by the Patent and Market Court and, on appeal, by the Patent and Market Court of Appeal, in the same manner as competition damages actions described above.

17. The following are examples of older successful private actions which led the Market Court to issue orders to cease anti-competitive practices. In all of these examples, the private claimant brought the action following a decision by the SCA not to take administrative action against the conduct in question.

3.1. Sveriges Bildelsgrossisters förening v. Kia Motors Sweden[20]

18. A condition in Kia's new-car warranty that required servicing during the warranty period to be carried out by an authorised Kia workshop was held to constitute a restriction of competition "by object" contrary to article 101 TFEU and the corresponding provision of Swedish competition law. The Market Court ordered Kia to cease applying the condition, subject to a conditional fine of SEK 5 million.

3.2. Bring CityMail v. Posten[21]

19. A so-called sorting discount was found to constitute an abuse of a dominant position. The Market Court ordered Posten (the incumbent Swedish postal service company) to terminate the discount, subject to a conditional fine of SEK 100 million.

[19] Such a right to litigate does not exist in cases where the SCA has applied Article 13 of Council Regulation (EC) No 1/2003 to (i) suspend proceedings or reject a complaint owing to it being dealt with by another national competition authority, or (ii) reject a complaint owing to it already having been handled in another Member State of the EU.

[20] MD 2012:13.

[21] MD 2011:14.

3.3. Uppsala Taxi v. EuroPark et al.[22]

20. Two collectively dominant undertakings were ordered, subject to a conditional fine of SEK 2 million, to cease charging a special fee to taxi companies at Arlanda Airport. The fee was found to constitute an abuse of a collective dominant position in the form of an unfair trading condition.

21. This case is of interest as, following its outcome, the SCA brought an action for a competition fine against one of the parties that had been held liable for the abuse of a dominant position in the private action. The Market Court held that the SCA's action was admissible, notwithstanding the defendant's argument that it was contrary to the principle of *ne bis in idem*.[23] Accordingly, the SCA was entitled to seek a competition fine following a successful private action that had resulted in an injunction to cease conduct constituting an infringement of competition law.

22. Ultimately, however, the Stockholm District Court dismissed the SCA's claim on substantive grounds following a full examination of the merits of the case.[24] The District Court found that the charging of the fee in question was a restriction of competition, but considered that the conduct was objectively justified in light of the airport's capacity constraints. In its judgement, the District Court explicitly acknowledged that it had arrived at a different assessment to the Market Court, stating that the evidentiary value of the Market Court's assessment of objective justification was reduced by the fact that its reasoning was so brief, and that the issue had been examined thoroughly in the District Court's proceedings.

[22] MD 2011:28.

[23] MD 2015:4, *Swedavia v. Konkurrensverket*.

[24] Judgment of the Stockholm District Court of 9 June 2016 in case no. T 9131-13 (not appealed).