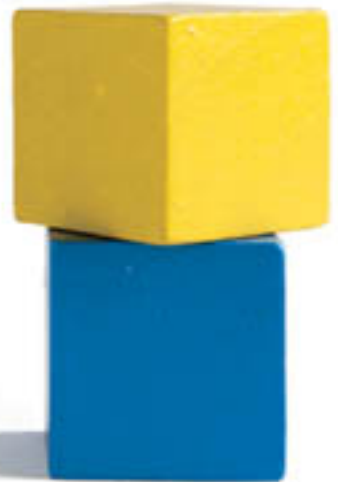


Swedish Competition Act

(Only the Swedish version is authentic)



Introductory provisions

Article 1

The purpose of this Act is to eliminate and counteract obstacles to effective competition in the field of production of and trade in goods, services and other products.

Article 2

This Act shall not apply to agreements between employers and employees relating to wages and other conditions of employment.

Article 3

(1) For the purposes of this Act an undertaking shall be defined as a natural or legal person engaged in activities of an economic or commercial nature. To the extent that such activities involve the exercise of authority they shall not fall within the scope of this definition.

(2) The term undertaking shall also include associations of undertakings.

(3) The provisions of the Act relating to agreements shall also apply to:

1. decisions by an association of undertakings; and
2. concerted practices of undertakings.

Article 4 repealed through Act (2000:88).

Article 5

The Government determines which courts and other authorities shall be competition authorities in accordance with the Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 in the Treaty, if this is not stipulated in this Act. Act (2004:409).

Prohibited restrictions on competition

Anti-competitive co-operation between undertakings

Article 6

(1) Without prejudice to Articles 8, 8 a, 18 c or 18 e, agreements between undertakings shall be prohibited if they have as their object or effect, the prevention, restriction or distortion of competition in the market to an appreciable extent.

(2) This shall apply, in particular, to agreements which:

1. directly or indirectly fix purchase or selling prices or any other trading conditions;
2. limit or control production, markets, technical development, or investment;
3. share markets or sources of supply;

4. apply dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage; or
5. make the conclusion of contracts subject to acceptance by the other parties of supplementary obligations, which by their nature or according to commercial usage have no connection with the subject of such contracts. Act 1998:648.

Article 7

Any agreements or provisions included in agreements that are prohibited under Article 6 shall be void.

Article 8

The prohibition in Article 6 does not apply to agreements which

1. contributes to improving the production or distribution or to promoting technical or economic progress;
2. allows consumers a fair share of the resulting benefit;
3. only imposes on the undertakings concerned restrictions which are indispensable to the attainment of the objective referred to in paragraph 1; and
4. does not afford such undertakings the possibility of eliminating competition in respect of a substantial part of the utilities in question. Act (2004:409).

Article 8 a

(1) Exemptions from the prohibition in Article 6 shall apply to categories of agreements that satisfy the conditions laid down in Article 8 (block exemptions).

(2) Such categories of agreements are set out in the implementing provisions by the Government or an authority so empowered by the Government.

(3) If an individual agreement as a result of a block exemption is exempted from the prohibition in Article 6, but has effects which are incompatible with Article 8, the Competition Authority may determine that the agreement shall not be covered by the block exemption. Act (2004:409).

Article 9 repealed through Act (2004:409).

Article 10 repealed through Act (2004:409).

Article 11 repealed through Act (2004:409).

Article 12 repealed through Act (2004:409).

Article 13 repealed through Act (2004:409).

Article 14 repealed through Act (2004:409).

Article 15 repealed through Act (2004:409).

Article 16 repealed through Act (2004:409).

Article 17 repealed through Act (2004:409).

Article 18 repealed through Act (2004:409).

Special provisions for certain forms of co-operation between small undertakings

Article 18 a

In this Act a primary agricultural association is defined as an economic association whose members are individual farmers or other undertakings engaged in agriculture, horticulture or forestry. If associations of such undertakings are members of an association, the latter is, however, only regarded as a primary agricultural association providing that such associations only contain local associations of undertakings operating activities of the kind specified. Act (1994:688).

Article 18 b

The Act (2000:1025) on the meaning of the terms agricultural, horticultural and forestry produce as used in the Competition Act (1993:20) contains special provisions on what is meant by such produce under this Act. Act (2000:1021).

Article 18 c

(1) The prohibition in Article 6 does not apply to those agreements within a primary agricultural association or its subsidiaries that concern co-operation between the members of the association on:

1. the production, collection, processing, sale or related activities such as the use of jointly owned facilities, storing, preparation, distribution or marketing of agricultural, horticultural or forestry produce, or
2. the purchase of goods or services for such activity as is referred to in 1.

(2) The first paragraph does not, however, apply to agreements which have as their object or effect

1. the prevention or impairment of free mobility of a member on the market
 - a) with respect to choosing a buyer or a supplier,
 - b) with respect to the possibility of leaving the association, or
 - c) in other respects of equivalent importance, or
2. that selling prices are directly or indirectly fixed for goods when the sale takes place directly between the member and a third party. Act (2000:1021).

Article 18 d

(1) For the purposes of this Act a taxi undertaking is an undertaking providing or carrying out taxi services or comparable transport services.

(2) A central booking service refers to a joint or independent function which receives orders and distributes transport assignments between taxi undertakings. The function can also perform related activities. Act (2000:1021).

Article 18 e

(1) The prohibition in Article 6 does not apply to a written agreement between taxi undertakings or between a central booking service and taxi undertakings if the agreement:

1. concerns joint transport activities through co-operation by means of a central booking service or in other ways for the purpose of achieving efficiency gains or other such financial advantages,
2. is needed to satisfy the public interest in having access to taxi services, and
3. covers a maximum of 40 taxi vehicles.

(2) The exemption under the first paragraph does not apply:

1. to the extent that the co-operation concerns practices or conditions which involve or cover:
 - a) the setting of joint prices,
 - b) the division of markets,
 - c) a period of notice for participating taxi undertakings which exceeds six months from the date when notice is given, or concerning an economic association, conditions that notice may not be given until six months at the earliest, or a longer period after entry, or
 - d) prohibition against participating taxi undertakings to compete after the expiry of the agreement with joint transport activity, and
2. to the extent that it is evident that the purpose of the joint transport activity or interest in access to taxi services in accordance with the first paragraph points 1 and 2 can be satisfied without the co-operation covering such practices or conditions as set out in 1 a-d. Act (2000:1021).

Abuse of a dominant position

Article 19

(1) Any abuse by one or more undertakings of a dominant position on the market shall be prohibited.

(2) Such abuse may, in particular, consist in:

1. directly or indirectly imposing unfair purchase or selling prices or other unfair trading conditions;
2. limiting production, markets or technical development to the prejudice of consumers;

3. applying dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage; or
4. making the conclusion of contracts subject to acceptance by the other parties of supplementary obligations, which by their nature or according to commercial usage have no connection with the subject of such contracts. Act (1998:648).

Article 20 repealed through Act (2004:409).

Article 21 repealed through Act (2004:409).

Article 22 repealed through Act (2004:409).

Action against prohibited restrictions on competition

Article 23

(1) The Swedish Competition Authority may require an undertaking to terminate an infringement of any of the prohibitions laid down in Article 6 or 19, or Articles 81 or 82 in the EC Treaty.

(2) If the Swedish Competition Authority decides in a particular case not to impose such an obligation, the Market Court may do so at the request of an undertaking that is affected by the infringement. Such a right to legal action, however, does not exist if the decision of the Swedish Competition Authority is based on Article 13 of the Council Regulation (EC) No 1/2003. Act (2004:409).

Article 23 a

(1) If the question has been raised as to whether an undertaking infringes any of the prohibitions laid down in Article 23 (1), the Swedish Competition Authority may decide, if the undertaking agrees to take measures whereby the Authority no longer considers that an infringement exists, to accept the commitment. Decisions made by the Authority may cover a specified period. As long as the decision applies, the Authority in the circumstances concerning the commitment, may not issue any obligation pursuant to Article 23 (1).

(2) The Swedish Competition Authority may revoke its decision under the first paragraph where

1. there has been a change in any of the facts which were material to the making of the decision,
 2. the parties commit a breach of any obligation attached to the decision,
- or
3. the decision is based on incomplete, incorrect or misleading information which the parties have submitted. Act (2004:409).

Article 24

Decisions pursuant to Article 23 shall take effect immediately, unless other provision is made.

Article 25

If particular grounds exist, an obligation pursuant to Article 23 may be imposed for the period until a final decision is taken on the matter. The Market Court may only impose such an obligation following commencement of legal proceedings. Act (1998:648).

Fines

Article 26

(1) The Stockholm City Court may, at the request of the Swedish Competition Authority order an undertaking to pay an administrative fine where the undertaking, or a person acting on behalf of the undertaking, intentionally or negligently has infringed the prohibitions in Article 6 or 19, or Article 81 or 82 in the EC Treaty.

(2) The proceeds of the fine shall go to the State. Act (2004:409).

Article 27

(1) The fine shall be fixed at not less than SKr five thousand and not more than SKr five million, or an amount in excess thereof but not exceeding ten per cent of the annual turnover of the undertaking in the preceding business year.

(2) If an action relating to the fine is brought against several undertakings, the fine shall be determined individually for each undertaking.

Article 28

(1) When a fine is determined, account shall be taken of:

1. the gravity of the infringement,
2. the duration of the infringement, and
3. other aggravating or mitigating circumstances of importance in determining the infringement.

(2) In minor cases no fine shall be imposed. Act (2002:595).

Article 28 a

(1) The fine may be set at a lower amount than would be the case when applying Article 28:

1. if the undertaking has provided significant assistance in the investigation into its own participation in the infringement or that of others, or
2. if there exist other particular grounds relating to the undertaking.

(2) If an undertaking has provided highly significant assistance to an investigation as referred to in the first paragraph, point 1, immunity from

the fine may also be granted in cases other than those referred to in Article 28 b.

(3) The fine may be set at a higher amount than would be the case when applying Article 28, if the undertaking has previously infringed the prohibitions under this Act or in Article 81 or 82 in the EC Treaty. Act (2005:598).

Article 28 b

(1) Immunity from the fine may be granted for an undertaking which has infringed a prohibition under Article 6 or Article 81 in the EC Treaty, if the undertaking

1. notifies the infringement to the Swedish Competition Authority before the Authority has received sufficient material to take action against the infringement and no other undertaking which has been a party to the infringement has made a prior notification,
2. provides the Swedish Competition Authority with all the information relating to the infringement which the undertaking has access to,
3. co-operates fully with the Swedish Competition Authority during the investigation of the infringement, and
4. has discontinued or after its notification discontinues without delay its participation in the infringement.

(2) Immunity from the fine may not be granted, however, if the undertaking has had the leading role in the infringement and where with regard to the circumstances, it would thus be manifestly unreasonable to grant immunity. Act (2004:409).

Article 28 c

(1) Upon application by an undertaking which notifies an infringement of a prohibition pursuant to Article 6 or Article 81 in the EC Treaty, the Swedish Competition Authority shall state whether the conditions for granting immunity from the fine as provided for in Article 28 b (1) point 1, are fulfilled.

(2) A decision, whereby the Authority has stated that the conditions pursuant to Article 28 b (1) point 1 for immunity are fulfilled, is binding on the Authority, as well as the Stockholm City Court and the Market Court. Act (2004:409).

Article 29

Fines pursuant to Article 26 shall not be imposed for measures which have been taken during the period when the decision on acceptance of the commitment pursuant to Article 23 a (1) applies, if the measures are compatible with the decision. A fine may only be imposed, however, if the decision has been revoked pursuant to Article 23 a (2) point 3. Act (2004:409).

Article 30

(1) A fine may only be imposed where a summons application has been served on the party concerned within five years of termination of the infringement.

(2) The fine may not be imposed in respect of measures taken in compliance with a decision issued under penalty of a fine in accordance with the provisions of this Act.

Article 31

A fine that has been imposed shall lapse if the relevant judgement is not executed within five years gaining legal force.

Article 31 a

A fine shall be paid to the Swedish Competition Authority within thirty days of a judgement gaining legal force or a longer period as determined by the court. Act (2000:1022).

Article 31 b

If the fine is not paid within the period stated in Article 31 a, the Swedish Competition Authority shall take the necessary legal measures to collect the fine. Provisions on collection are set out in the Act (1993:891) on the collection of debts to the state etc. Act (2000:1022).

Article 31 c

The Government or the Authority determined by the Government may issue further provisions on how the fines shall be paid. Act (2000:1022).

Article 32

(1) In order to secure a claim for a fine, the court may issue a provisional attachment order. The provisions of Chapter 15 of the Swedish Code of Judicial Procedure concerning provisional attachment in respect of debts shall in relevant parts be applicable.

(2) Decisions on provisional attachment are issued by the court which is hearing the case on a fine. If a petition concerning a fine has not yet been submitted, legal proceedings on provisional attachment will be heard by the Stockholm City Court. Act (2000:1022).

Damages

Article 33

(1) Any undertaking which, intentionally or negligently, infringes any of the prohibitions contained in Article 6 or 19, or in Article 81 or 82 in the EC Treaty, shall compensate the damage that is caused thereby.

(2) The right to such damages shall lapse if no action is brought within ten years from the date when the damage was caused.

(3) The Stockholm City Court shall always be competent to examine cases relating to damages pursuant to this Article. Act (2005:598).

Concentrations between undertakings

Definition of a concentration

Article 34

(1) According to this Act, a concentration shall be deemed to arise where:

1. two or more previously independent undertakings merge, or
2. either one or more persons, already controlling at least one undertaking, or one or more undertakings acquire whether by purchase of securities or assets, by contract or by any other means direct or indirect control of the whole or parts of one or more other undertakings.

(2) The creation of a joint venture, which on a lasting basis fulfils all the functions of an autonomous economic entity, constitutes a concentration within the meaning of the first paragraph point 2. Act (2000:88).

Prohibition against concentrations etc

Article 34 a

(1) The Stockholm City Court may, at the request of the Swedish Competition Authority, prohibit a concentration that is subject to compulsory notification in accordance with Article 37, or which has been voluntarily notified in accordance with what is stated therein.

(2) A concentration shall be prohibited, if:

1. it creates or strengthens a dominant position which significantly impedes, or is liable to significantly impede the existence or development of effective competition in the country as a whole, or a substantial part thereof; and
2. if a prohibition can be issued without significantly setting aside national security or essential supply interests. Act (2000:88).

Article 34 b

(1) To the extent that the creation of a joint venture, which constitutes a concentration in accordance with Article 34, has the aim or effect of co-ordinating the competitive behaviour of the undertakings which remain independent, in the examination of a prohibition pursuant to the second paragraph in Article 34 a against a concentration, the co-ordination shall be appraised in accordance with Article 6 and Article 8.

(2) A decision by the Swedish Competition Authority not to take any action with regard to a concentration shall also cover restrictions directly related and necessary to the implementation of the concentration that has been notified.

(3) Examination under the first or second paragraph shall take place in accordance with the procedural provisions for appraising a concentration. Act (2000:88).

Article 35

In consequence of a decision to prohibit a concentration, a transaction which constitutes a part of a concentration shall be void. This does not, however, apply to such transactions constituting an acquisition which has taken place on a Swedish or foreign stock exchange, a recognised market or any other regulated market or by a bid at an executive auction. In such cases, the undertaking making the acquisition may be ordered to divest the assets acquired. Act (2000:88).

Article 36

(1) If it is sufficient to eliminate the adverse effects of a concentration, a party to a concentration, instead of being subject to a prohibition pursuant to Article 34 a, may instead be required:

1. to divest an undertaking, or a part of an undertaking, or
2. to take some other measure having a favourable effect on competition.

(2) An obligation under the first paragraph may not be more extensive than is required to eliminate the harmful effects of a restriction on competition. Act (2000:88).

Notification of a concentration

Article 37

(1) A concentration shall be notified to the Swedish Competition Authority if:

1. the combined aggregate turnover of all the undertakings concerned in the preceding financial year exceeds SKr 4 billion and
2. at least two of the undertakings concerned had a turnover in Sweden the preceding financial year which exceeds SKr 100 million for each of the undertakings.

(2) If the turnover requirement according to the first paragraph point 1 is fulfilled, but the turnover does not exceed what is laid down in the first paragraph point 2, the Swedish Competition Authority may in a particular case require a party to a concentration to notify the concentration, where particular grounds exist for so doing. A party and other participants in a concentration always have the right to voluntarily notify a concentration, where the turnover requirement as laid down in the first paragraph point 1 is fulfilled. Act (2000:88).

Article 37 a

(1) A merger pursuant to the first paragraph in Article 34 point 1, shall be notified by the merging undertakings.

(2) In other cases the notification shall be made by the party or parties acquiring control over an undertaking or a part thereof. Act (2000:88).

Special investigations of concentrations

Article 38

(1) The Swedish Competition Authority may decide to carry out a special investigation of a concentration notified under Article 37.

(2) Such a decision shall be issued not later than 25 working days after receipt of the notification by the Swedish Competition Authority. During this period the parties and other participants in a concentration may not take any action to put the concentration into effect.

(3) The Swedish Competition Authority may in exceptional cases grant an exemption from the prohibition laid down in the second sentence of the second paragraph.

(4) The Swedish Competition Authority may issue a prohibition or an obligation to the parties to a concentration and other participants in order to ensure compliance with the prohibition in the second sentence of the second paragraph. Act (2000:88).

Actions relating to concentrations

Article 39

(1) Actions before the Stockholm City Court pursuant to Article 34 a or Article 36 may only be brought following a decision to carry out a special investigation pursuant to Article 38.

(2) An action must be brought within three months of the decision. The Stockholm City Court may, at the request of the Swedish Competition Authority, extend this time limit by not more than one month at a time, subject to the agreement of the parties to the concentration and the consent of the party making the notification in accordance with the second paragraph of Article 37. When a concentration has taken place in the manner provided for in the second sentence of Article 35, the consent of the acquiring party is sufficient.

(3) If exceptional grounds exist, this time limit may be extended without the consent provided for in the second paragraph. Act (2000:88).

Article 40

(1) If the Swedish Competition Authority decides not to intervene with respect to a concentration, an action referred to in Article 39 (1) may not be brought concerning the concentration.

(2) This shall not, however, apply in cases where the decision was influenced by incorrect information submitted by any party to the concentration or any other participant. Act (2000:88).

Prohibition awaiting final examination

Article 41

(1) If such a measure is justified by a public interest which outweighs the inconvenience caused, the Stockholm City Court may, at the request of the Swedish Competition Authority, prohibit the parties and other participants in a concentration from taking any measure to put the concentration into effect until a final decision has been taken as provided for in Article 34 a or Article 36. Such an application shall be made in writing unless an action is pending.

(2) The application may not be granted unless the party to whom the decision applies and the party who has made the notification in accordance with Article 37 (2) have been given the opportunity of expressing their views. Where a concentration has taken place in the manner stated in the second sentence of Article 35, only the party making the acquisition has to be given the opportunity of expressing its views.

(3) If exceptional grounds exist, the prohibition may be imposed immediately and apply until otherwise decided. Act (2000:88).

Time limit for decisions on concentrations

Article 42

(1) A prohibition or obligation pursuant to Article 34 a or Article 36 may not be imposed more than six months after an action has been brought before the Stockholm City Court. This time limit may be extended, subject to the agreement of the parties to the concentration and the party who made the notification in accordance with Article 37 (2). Where the concentration has taken place in the manner stated in the second sentence of Article 35, the consent of the acquiring party is sufficient.

(2) If exceptional grounds exist, the time limit may be extended without the consent of those stated in the first paragraph. A prohibition or obligation may not, however, be imposed more than two years after a concentration has occurred.

(3) If an appeal is made against the judgement of the Stockholm City Court, the Market Court shall make a ruling within three months of expiry of the period for appeal. The provisions of the first paragraph or the second paragraph concerning an extension of the time limit shall also apply to the Market Court's examination of the case. Act (2000:88).

Review

Article 43

(1) Notwithstanding the imposition of a prohibition or obligation pursuant to Article 34 a or Article 36, the matter may be reviewed where revocation or modification of the prohibition or obligation is justified on the grounds that it is no longer necessary or appropriate.

(2) A decision by the Stockholm City Court or the Market Court not to take any action with respect to a concentration, may only be reviewed where a party to a concentration or other participants have provided incorrect information about matters which are of material importance in making the decision. Act (2000:88).

Article 44

(1) Petitions for review under Article 43 shall be addressed to the Stockholm City Court by the Swedish Competition Authority or by a party affected by the decision.

(2) Petitions for review under Article 43 (2) shall be submitted not later than one year after a final decision has been made on the matter.

Obligation to supply information and investigations

General obligations for undertakings etc.

Article 45

(1) Where this is necessary for the performance of its duties under this Act, the Swedish Competition Authority may require:

1. undertakings or other parties to supply information, documents or other material;
2. persons who are likely to be in a position to provide relevant information to appear at a hearing at a time and place decided by the Authority; or
3. a municipality or county council engaged in activities of an economic or commercial nature to account for the costs of and revenues from these activities.

(2) The first paragraph also applies to the Swedish Competition Authority's examination when such an action is requested by a competition authority of another Member State in the European Union. Act (2004:409).

Article 46

Decisions pursuant to Article 45 shall take effect immediately, unless other provision is made.

Investigation of infringements of prohibitions

Article 47

(1) Upon application by the Swedish Competition Authority, the Stockholm City Court may decide that the Authority may carry out an inspection on the premises of an undertaking to establish whether it has infringed any of the prohibitions contained in Articles 6 or 19, or Articles 81 or 82 in the EC Treaty, where

1. there is reason to believe that an infringement has been committed;
2. the undertaking does not comply with an obligation imposed pursuant

to Article 45 (1) point 1, or there is a risk of evidence being withheld or tampered with, and

3. the importance of the action taken is sufficient to outweigh the interference or other inconvenience caused to the parties affected by it.
- (2) The first paragraph also applies to an application which the Swedish Competition Authority makes at the request of a competition authority of another Member State in the European Union.
- (3) Applications for inspections shall be made in writing. Act (2004:409).

Article 48

- (1) A decision pursuant to Article 47 may also refer to an undertaking other than that to be investigated.
 - (2) The decision may also concern homes and other premises used by members of the board and employees in the undertaking which is subject to investigation.
 - (3) A decision pursuant to the first or second paragraph may only be taken where:
 1. the conditions in Article 47 (1), points 1 and 3 are satisfied;
 2. there is a strong indication that the party referred to in the application is in possession of evidence, and
 3. the said party does not comply with an obligation imposed pursuant to Article 45 (1) point 1, or where there is otherwise a risk of evidence being withheld or tampered with.
 - (4) A decision pursuant to the second paragraph may only be issued if the infringement is also serious.
- Act (2005:598).

Article 49

- (1) A decision pursuant to Article 47, 48, 53 a or 56 b may be issued without the party referred to in the application being given the opportunity to be heard if it is thought that the inspection would otherwise be undermined.
- (2) Decisions pursuant to the first paragraph shall only be communicated to the Swedish Competition Authority. When an inspection is initiated, the Authority shall present a copy of the decision to the party on whose premises the inspection shall be carried out. Act (2004:409).

Article 50

- (1) A decision pursuant to Article 47, 48 or 56 b shall specify:
 1. the subject matter and purpose of the inspection;
 2. the date on which the inspection is to begin; and
 3. the Swedish Competition Authority's powers under Article 51.
- (2) The decision shall take effect immediately, unless other provision is made. Act (2002:595).

Article 50 a

When the Swedish Competition Authority at the request of the Commission of the European Community carries out an inspection as laid down in Article 22 (2) in the Council Regulation (EC) No 1/2003, Articles 51, 52, 53 b and 54-56 are applied. Act (2004:409).

Article 51

When carrying out an inspection decided upon pursuant to Article 47, 48, or 56 b or as laid down in Article 50 a, the Competition Authority shall be empowered

1. to examine the books and other business records;
2. to take copies of or extracts from the books and business records;
3. to ask for oral explanations on the spot; and
4. to have access to any premises, land, means of transport and other areas. Act (2004:409).

Article 52

(1) When an inspection decided upon pursuant to Article 47, 48 or 56 b or as laid down in Article 50 a is to be carried out, the party on whose premises the inspection is to be carried out shall have the right to summon a legal representative.

(2) Pending the arrival of such a representative, the inspection shall not begin. However, this shall not apply where:

1. the inspection is unduly delayed as a result,
2. the decision to conduct an inspection is taken pursuant to Article 49, or
3. the inspection is such as is laid down in Article 50 a and it is thought that the inspection would be undermined if it is not carried out immediately. Act (2004:409).

Article 53

(1) The Swedish Competition Authority may request assistance from the Enforcement Service in carrying out the measures referred to in Article 51 points 1, 2 and 4.

(2) Matters regarding assistance under this Article are determined by the Enforcement Service in Stockholm. The provisions of the Enforcement Code applicable to such enforcement as laid down in Chapter 16, Section 10 of the Code shall be applicable. The Authority shall not, however, inform the party being investigated prior to the commencement of such investigation. Act (1998:648).

Article 53 a

Questions concerning prior authorisation concerning Article 21 (3) in the Council Regulation (EC) No 1/2003 are examined by the Stockholm City Court at the request of the Swedish Competition Authority. Act (2004:409).

Article 53 b

(1) When the Commission of the European Community has decided on an inspection under Article 20 (4) of the Council Regulation (EC) No 1/2003, the Enforcement Agency may at the request of the Swedish Competition Authority decide on assistance to be able to carry out the inspection. The same applies when a decision on prior authorisation is issued pursuant to Article 53 a.

(2) Matters regarding assistance under this Article are determined by the Enforcement Service in Stockholm. The provisions of the Enforcement Code concerning such enforcement as laid down in Chapter 16, Section 10 of the Code shall be applicable. The Authority shall not, however, inform the party prior to the commencement of such an inspection. Act (2004:409).

Common provisions

Article 54

(1) Action taken pursuant to Article 45, 51 or 56 a may not relate to written documents:

1. the contents of which may be assumed to be such as to preclude the possibility of examining a member of the Swedish Bar Association or any of his associates as a witness about it; and
2. which are in his possession or in that of the person protected by his duty of professional secrecy.

(2) If the Swedish Competition Authority is of the opinion that a certain document should be subject to the investigation under Article 51 and the party subject to the action claims that the document is a privileged communication under the first paragraph, the document shall immediately be sealed and delivered without delay to the Stockholm City Court by the Swedish Competition Authority. The Stockholm City Court shall without delay determine whether the document is covered by the provisions of the first paragraph. Act (2002:595).

Article 55

An obligation imposed pursuant to Article 45 or Article 56 a or an investigation conducted pursuant to Article 51 shall not entail an obligation to disclose business secrets of a technical nature. Act (2002:595).

Article 56

Persons or undertakings that are subject to an obligation to supply information under this Act must not be unduly burdened.

International co-operation

Article 56 a

(1) The Swedish Competition Authority may issue an order pursuant to Article 45, if it is so requested by an authority in a state with which Sweden has entered into an agreement on the provision of legal assistance in competition cases.

(2) An order pursuant to the first paragraph shall take effect immediately, unless other provision is made. Act (2002:595).

Article 56 b

(1) On application by an authority in a state with which Sweden has entered into an agreement on the provision of legal assistance in competition cases, the Stockholm City Court, on application by the Swedish Competition Authority, may decide that the Authority may carry out an inspection of an undertaking or of some other person to assist the other state in its investigation of whether its rules on competition have been infringed, providing:

1. there is reason to believe that an infringement has taken place,
2. the practice which is being investigated is of such a nature that under the application of this Act or the competition rules of the European Community, the practice would have constituted an infringement of Article 6, or Article 19, or Article 81 or Article 82 in the Treaty establishing the European Community, if any of these regulatory frameworks had been applied to the practice,
3. there is a strong indication to suppose that the party referred to in the application is in possession of evidence,
4. the said party does not comply with an order to provide information, documents or other material pursuant to Article 56 a, or there is otherwise a risk of evidence being withheld or tampered with, and
5. the importance of the action to be taken is sufficient to outweigh the interference or other inconvenience caused to the party affected by it.

(2) Applications shall be made in writing. Act (2002:595).

Fines

Obligations imposed under penalty of a fine

Article 57

(1) A prohibition or obligation pursuant to Article 23, 34 a, 35, 36, 38, 41, 45 or 56 a may be imposed under penalty of a fine. In addition, a decision to conduct an investigation pursuant to Article 47, 48 or 56 b may have a fine attached to it in order to compel an undertaking or other person to submit to the investigation.

(2) A voluntary commitment made in connection with a concentration between undertakings or in a matter pursuant to Article 23 a (1), may be made subject to a penalty of a fine. Such a fine shall be imposed by the Stockholm City Court at the request of the Swedish Competition Authority. Act (2004:409).

Article 58

The Swedish Competition Authority may make compliance with the obligation laid down in Article 37 subject to the penalty of a fine.

Imposition of fines

Article 59

(1) Actions for the imposition of fines pursuant to the provisions of this Act shall be brought before a district court by the Swedish Competition Authority. In the case of fines imposed by the court at the instance of an undertaking, an action for the award of fines may also be brought by that undertaking.

(2) The Stockholm City Court shall always be competent to examine cases pursuant to this Article.

Appeals

Article 60

(1) Appeals may be made to the Market Court against decisions taken by the Swedish Competition Authority on the following matters:

1. obligations which the Authority has issued pursuant to Article 23 (1) and Article 25,
2. prohibitions or obligations pursuant to Article 38 (4),
3. obligations pursuant to Articles 45 and 56 a,
4. measures pursuant to Article 8 a (3),
5. revocation of an exemption pursuant to Article 29 (2) of the Council Regulation (EC) No 1/2003, and
6. revocation of an obligation pursuant to Article 23 a (2).

(2) Appeals may be made against decisions made under the first paragraph, point 1 and points 4 to 6 by undertakings that are affected by the decision. Act (2004:409).

Article 61 repealed through Act (2004:409).

Article 62

No appeals may be made against the decisions taken by the Swedish Competition Authority under the provisions of this Act other than those provided for in Article 60. Act (2004:409).

Article 63

(1) Appeals against judgements and decisions of the Stockholm City Court may be lodged with the Market Court in the following cases:

1. fines pursuant to Article 26,
2. provisional attachment pursuant to Article 32,
3. concentrations pursuant to Articles 34 a, 36, 41 and 43,
4. inspections pursuant to Articles 47, 48 and 56 b.
5. prior authorisation pursuant to Article 53 a, and
6. examinations pursuant to Article 54 second point.

(2) Appeals against decisions issued during proceedings dealing with matters referred to in Article 32 or Article 41 shall be made separately. An appeal against a decision issued prior to the commencement of proceedings shall be made as if it were issued during proceedings. Act (2004:409).

Procedural rules

Article 64

(1) Without prejudice to the provisions of this Act, the following provisions shall be applicable:

1. with respect to proceedings under Article 23 (2) and Article 63 (1), points 1-3, the provisions of the Swedish Code of Judicial Procedure concerning disputes where settlement out of court is not permitted, and
2. with respect to the examination of matters referred to in Article 60 (1) and Article 63 (1) points 4-6, the Act (1996:242) on the Examination of Non-Contentious Matters, concerning the costs of legal proceedings, the provisions of Chapter 31 of the Code of Judicial Procedure shall, however, be applicable.

(2) In cases and matters pursuant to in Article 63, the provisions in the Swedish Code of Judicial Procedure relating to courts of appeal in Chapters 49, 50 and 52, as well as in Article 39 (1) in the Act on Examination of Non-Contentious Matters shall instead be applicable to the Market Court.

(3) If particular grounds exist, the Market Court may, in cases and matters where there is a dispute between the parties, determine that each of the parties is liable for their own legal costs. Act (2004:409).

Article 64 a

(1) At main proceedings in cases referred to in Article 63 (1) points 1-5, the district court shall consist of four members, two of which shall be legally qualified judges and two shall be experts in economics. One of the legally qualified judges shall be chairperson of the court.

(2) If, after the main proceedings have begun, one of the members is prevented from being present, the court still constitutes a quorum.

(3) At main proceedings in cases referred to in Chapter 1, Article 3 a (2) and (3) of the Swedish Code of Judicial Procedure and at decisions in cases without main proceedings, as well as at examinations which do not take place at the main proceedings, the district court shall, without prejudice to the provisions in Article 64 b, consist of a legally qualified judge. In such cases, however, an expert in economics may also participate as a member of the court. Act (2004:409).

Article 64 b

At decisions in cases without main proceedings and at examination of issues related to the proceedings, the district court may have the constitution referred to in Article 64 a (1) if there are particular grounds concerning the nature of the case or the issue. Act (1993:681).

Article 64 c

At examinations of cases referred to in Article 63 (1), points 4-6, the district court shall have the constitution referred to in Article 64 a (1). However at such examinations, the district court may instead consist of a legally qualified judge, or such a judge and an expert in economics if this is sufficient taking into account the nature of the examination. In other cases the district court shall consist of a legally qualified judge or such a judge and an expert in economics. Act (2004:409).

Article 64 d

(1) The Government appoints for a given period of time those who shall serve as experts in economics pursuant to Articles 64 a and 64 c. If, while an expert in economics is participating in the examination of a case, circumstances should occur which entail the expiry of the appointment, the appointment shall irrespective of this be considered as having continuous validity during the current case.

(2) Those who shall serve as experts in economics shall be Swedish citizens and may not be a minor or be in bankruptcy or have a trustee pursuant to Chapter 11 Article 7 of the Code on Parents, Guardians and Children. Act (1993:681).

Article 65

For the purposes of matters covered by this Act the provisions of the Swedish Code of Judicial Procedure relating to prosecutors shall, with respect to orders concerning parties and the non-appearance of a party, apply to the Swedish Competition Authority. Act (1996:266).

Article 65 a repealed through Act (1998:648).

Article 66

Regarding examination of a matter pursuant to Article 41, where no action is pending, the provisions that are applicable when such a matter

is the subject of proceedings shall, in addition to the provisions of that Article, be applicable. A claim for costs presented by the party opposing the Swedish Competition Authority may, however, be examined in connection with the decision on the measure to be taken.

Article 67

A measure provided for in Article 41 which has been decided on where no action is pending, shall be withdrawn immediately, unless the Swedish Competition Authority decides to carry out a special investigation pursuant to Article 38, or where such a decision has been issued, does not bring an action pursuant to Article 39. The same shall apply where the Swedish Competition Authority decides not to take any action concerning the concentration. Act (2000:88).

Article 68 repealed through Act (2000:88).

Article 69

(1) If it facilitates the investigation, the matters referred to in Article 23 (2) or Article 63 (1), points 1-3, may be examined in one proceeding under this Act when the case and examination is dealt with by the same Court. The examination shall take place in accordance with the provisions in Article 64 (1), point 1 and Articles 64 a and 64 b.

(2) When matters are joined in one proceeding in the Market Court under Article 23 (2) together with other matters under this Act, the rules of the district court shall apply. In other cases the rules for the courts of appeal shall be applied. Act (1998:648).

Article 70

A statement which has been submitted by the Commission of the European Community or the Swedish Competition Authority on the application of Article 15 of the Council Regulation (EC) No 1/2003 may be taken into account by the court without a submission from a party. The parties shall be provided the opportunity to comment on the statement. Act (2004:409).

Entry into force and transitional provisions

1993:20

1. This Act shall enter into force on July 1, 1993.
2. The Act shall supersede the Competition Act (1982:729) and the Act (1991:921) on Prohibition Against Restrictions on Competition Regarding Agricultural Products Act.
3. The following shall apply to agreements existing at the time of entry into force of this Act and regarding which notifications for exemption under Article 8 or applications for negative clearance under Article 20 are submitted to the Swedish Competition Authority within 6 months of entry into force of this Act.
 - (a) the provisions of Article 7 shall only be applied 6 months after the date of a decision issued by the Swedish Competition Authority concerning a notification or application;
 - (b) the provisions of Article 23 shall not, as regards infringements of the prohibition contained in Article 6, be applied before the date referred to in subparagraph (a);
 - (c) fines under Article 26 or damages provided for in Article 33 for infringements of the prohibition in Article 6, may not be imposed in respect of measures taken before the date referred to in subparagraph (a), provided that these measures are related to the activity described in the notification or application.
4. As regards agreements or practices existing upon entry into force of this Act which are prohibited under Article 6 or Article 19, the prohibitions shall not be applicable if, within 6 months of entry into force of this Act, the agreements or practices:
 - (a) are altered in such a way as to make them eligible for a block exemption under Article 17;
 - (b) are altered in such a way that they no longer fall within the scope of Article 6 or Article 19; or
 - (c) are terminated.The provisions of paragraph 4 (a) shall not prevent the Swedish Competition Authority from withdrawing an exemption for an agreement granted under Article 18.
5. Notifications for exemption pursuant to Article 8 or applications for negative clearance pursuant to Article 20 may be dealt with prior to entry into force of this Act. If an appeal regarding such an issue has been made to the district court before its entry into force, the court shall have the constitution referred to in the Examination of Non-Contentious Matters Act (1946:807) instead of that referred to in Article 64 c. Paragraph 3 (a) to (c) above shall apply to a notification or application made before entry into force of this Act. However, in such cases the time limit shall be 10 months. Act (1993:681).

6. Article 13 of this Act shall apply to agreements referred to in paragraph 3 above which are notified in accordance with the provisions laid down therein, except that the date from which the exemption shall be deemed to have been granted shall be that of entry into force of this Act. The same shall apply to agreements notified prior to entry into force of this Act.

7. Earlier provisions still in force shall continue to apply to acquisitions of undertakings effected prior to entry into force of this Act.

1994:1494

This Act enters into force on 1 January 1995 and shall only be applied in such cases where a decision by the Swedish Competition Authority is issued after the end of 1994.

1994:1846

In accordance with the decision of the Swedish Riksdag, Article 5 of the Competition Act (1993:20) shall cease to apply on the day the Act (1994:1500) on Sweden's Accession to the European Union enters into force. The first point in the deleted paragraph shall, however, continue to be applied in those cases where the revoked Act (1992:1317) on a European Economic Area (EEA) remains applicable in accordance with the transitional provisions laid down in the Act (1994:1500) on Sweden's Accession to the European Union.

1997:221

1. This Act enters into force on 1 July 1997.
2. Earlier provisions shall continue to apply to acquisitions of undertakings effected prior to entry into force.

1998:648

1. This Act enters into force on 1 July 1998.
2. As regards notifications pursuant to Article 9 which have been made to the Swedish Competition Authority prior to the entry into force, Article 13 is applicable in accordance with the earlier formulation. With regard to the withdrawal of objections, however, the provision shall apply in accordance with the new formulation.
3. A case or examination pending in the Stockholm City Court, which in accordance with the new provisions is to be heard by the Market Court, shall be transferred to the Market Court if it was registered in the Stockholm City Court after the end of 1996. Actions which have been taken during the examination in the Stockholm City Court in cases or examinations which are transferred, shall be deemed to have been taken in the Market Court.
4. Article 64 (3) shall apply to the costs of legal proceedings and examinations which were registered in the Market Court after the entry into force with the exception of those transferred under point 3.

2000:88

1. This Act enters into force on 1 April 2000.
2. Earlier provisions shall continue to apply to acquisitions of undertakings effected prior to entry into force.
3. Concentrations between undertakings in accordance with the new provisions which have come into existence prior to the entry into force, shall only be notified if there is an obligation to provide notification under earlier provisions on acquisitions of undertakings.

2002:595

1. This Act enters into force on 1 August 2002.
2. When making decisions concerning a reduction and granting immunity, account shall also be taken of measures, laid down in Article 28 a (1) and (2), and Article 28 b, which the undertaking has taken before entry into force.
3. Earlier provisions shall continue to apply to costs in cases pending before entry into force.

2004:409

1. This Act enters into force on 1 July 2004.
2. As regards exemptions which have been decided on under Article 8 in its earlier formulation, older provisions are applied so long as the exemption applies in accordance with the decision granting this. However, decisions on exemptions shall not be renewed under Article 11 or Article 16 after entry into force.
3. As regards exemptions applicable as a consequence of the provisions of Article 13 in its earlier formulation, the older provisions shall be applied.
4. As regards decisions on negative clearance granted prior to entry into force, older provisions are to be applied.
5. The conditions in Article 2 and 4 also apply if the decision has not gained legal force.
6. A fine may be imposed for infringements or disregard of Articles 81 or 82 in the EC Treaty concerning the period after 30 June 2004.

2005:598

1. This Act enters into force on 1 August 2005.
2. The earlier formulation of Article 28 a (3) still applies to infringements committed before the entry into force.
3. For claims which have arisen prior to the entry into force, Article 33 (2) applies in its earlier formulation.