

Competition in Sweden 2005

Summary of the report 2005:1

Conclusions and assessments

The Swedish Competition Authority has been charged with assembling a report that paints a broad picture of the competitive situation in Sweden, focusing in particular on areas of economic importance to consumers. Analysis shows that competition has on the whole improved in those industries described in the report – at least when seen over an extended period. Although the overall situation has improved, barriers to competition remain in a number of fields. If these were to be removed, competition and consumer benefit would increase further. Below, we describe how this might be achieved. We begin with a general account of the competitive conditions that prevail in various sectors of the Swedish economy.

More internationalisation, better competition and greater diversity

The Swedish economy has long been heavily dependent on the outside world due to the powerful impact of international trade on economic development. In recent years, countries have become increasingly interdependent. This trend is known as ‘globalisation’ has been under way for some time.

Over the past 20 years, a distinguishing feature of trade relations has been closer integration with traditionally important trading partners such as the EU and the US, while at the same time a number of countries, including India, China and Russia, as well as the new EU member states of Eastern Europe, have been integrated into the global economy, which means they are better able to engage in trade and can thus help increase the competitive pressure on the Swedish market, among others. Technological progress, meanwhile, has meant that enterprises are now finding it much easier to coordinate their production of goods and services over long distances in different countries than was possible a few years ago. The combination of new technology and freer trade between countries has enhanced buying power. This applies to enterprises buying input products for their production or their retailing, and also to consumers, who in practice are given access to a wider market – not just a local or national one but a European or global one – for their purchases. This increase in purchaser power is a result of people being given greater opportunity to compare prices and products and to do business over long distances, which makes for stiffer competition and forces buyers to become more efficient in order to compete in the market.

Sweden’s membership of the EU has also meant that the country’s economy has become more closely integrated with those of other European countries. Consequently, a number of state or state-controlled monopolies have encountered challenges. This is true of the monopoly for the retailing of medicines (the pharmaceutical monopoly), the retailing monopoly for alcoholic beverages (the alcohol monopoly) and the monopoly for commercial gaming (the gaming monopoly). Integration is partly a result of technological progress, but also of active legal scrutiny of the extent to which the monopolies comply with Community law.

More internationalisation is also evident in the convenience goods trade, where new low-price actors have become established. This has led to a greater variety of goods and has increasingly forced down prices. In the construction and civil engineering sector, too, there are signs of greater internationalisation: the market has become more open and there is scope for additional actors, as it has now become easier to import building materials. In addition, a number of non-Swedish construction companies, primarily from Eastern Europe, have established operations in the Swedish market since the EU was enlarged on 1 May 2004. This is a favourable development which in time may lead to a welcome improvement in competition in this sector.

Regulatory reforms and the liberalisation of markets have also contributed to growth in competition and consumer benefit. In the electronic communications sector, greater competition and rapid technological advance have led to significant price cuts and to a larger, more varied range. The Swedish telecommunications market has been identified by the Regulatory Reform Commission and others as one of the most dynamic parts of the Swedish economy. Internationally, too, the liberalisation of the telecommunications markets has yielded gains for consumers, and over the past ten years this industry has had an increasingly strong impact on productivity growth in economies. Actors who have not previously operated in the telephony or television sectors are now challenging the established operators in these fields in earnest. Convergence, which in this case involves the supply of several services – e.g. voice, image and data (Internet access) – via a single infrastructure, has been significant due to the transition from circuit switched networks (PSTN) to packet switched (IP) networks. This will in turn affect both users and operators.

Liberalisation has led to greater efficiency and consumer benefit in other markets exposed to regulatory reform as well. This applies for instance to the domestic airline industry, where the number of competitive routes has increased over the past year, which has led to lower air fares and a wider range. In the electricity market, too, liberalisation has yielded greater efficiency. Here, however, public regulations, high market concentration and other factors have meant that consumers have not benefited adequately from the efficiency gains. How the public sector manages its purchasing of goods and services is an important factor in competitive development in Sweden. In 2004, public procurement in the country was worth around SEK 344 billion. It is vital, therefore, that the procurement process is undertaken in an appropriate manner. Thus the Public Procurement Act is a crucial part of the competition policy framework. One problem of note is that small enterprises often have difficulty joining the procurement process due to the relative complexity of the regulations and the administrative strain that it places on bidders. Because of this, small enterprises are sometimes put in an unfavourable position. Another significant problem is the lack of effective sanctions when infringements of the rules occur, for instance in the case of unlawful direct procurement.

An indirect method for gauging competitive pressure in a particular country is to compare the price level that applies there with price levels in other countries. The Swedish price level for private consumption is higher than in many comparable countries in our vicinity. It is significantly higher than the level in countries like Belgium, France, Germany and the Netherlands. Compared with the average for EU member states prior to 1 May 2004 (the EU15), the Swedish price level was 16 per cent higher in 2004. In 2003, Swedish prices were estimated to be 22 per cent higher than the average for the EU countries plus what were then the candidate countries (the EU25), and 18 per cent higher than the level for the EU15. It is worth emphasising, however, that these relationships should not be regarded as precise, but rather as indications. Thus it is fair to say that there are grounds for the claim that Swedish prices are significantly higher than the EU average.

At the same time, however, the increase in prices over the past two or three years, expressed in terms of the harmonised consumer price index (HCPI), has been somewhat smaller in Sweden than in most other European countries. For the period 31 December 2001 – 31 December 2004, the increase in Sweden was almost 2 per cent less than the figure for the EU15. When individual goods or service categories are studied, the picture is largely the same as for private consumption as a whole. The deviations noted for the period were primarily a 3 per cent *lower* increase in Swedish food prices in relation to the EU15 and the fact that price increases for housing were almost 5.5 percentage points *higher* in Sweden than among the EU15. Also worth noting is that over a longer time frame, the markets for electronic communications in Sweden appear exemplary by international price comparison. In 2005, too,

the general increase in prices has been lower in Sweden than in most other European countries.

Despite the fact that price increases in Sweden over the past two or three years have been lower than the EU average, the Competition Authority takes the view that there is scope for further reductions in price gaps between Sweden and a number of other countries. A halving of the price gap vis-à-vis the EU15 is not an unreasonable target. To achieve it, better competition in a number of fields is of paramount importance.

If the difference in 2004 price levels between Sweden and the EU15 were to be halved, this could save most Swedish consumers several thousand kronor a year. For a Swedish family with children, a saving of this kind, all else being equal, could be worth something in the region of SEK 30,000 per annum. But greater competition is not expected to lead to lower prices alone, as enterprises have a number of different competitive means at their disposal. Additional actors in the market would yield benefits to consumers in several dimensions, as enterprises seek to create different kinds of competitive advantages or niches in order to win consumer favour. Thus greater competition would cause some enterprises not to respond with lower prices (alone) but also to offer consumers a higher service content in the form of improved services, a wider range or better quality products.

Greater competition, however, is not necessarily in the interests of business, as taken as a whole it can be expected to reduce profits for the enterprises concerned. In the following examples are given describing how it may be in the interests of enterprises to restrict competition.

Horizontal information sharing and coordination

Enterprises that share information and practise horizontal coordination can restrict competition. There is both theoretical and empirical evidence to the effect that certain types of information sharing are harmful to competition and thus detrimental to consumer welfare. When, for instance, competitors exchange information about future prices and sales volumes, this may be a way of arriving at an anti-competitive horizontal agreement, while an exchange of information on historical prices and sales volumes is a way of ensuring compliance with such an agreement. Restricting or prohibiting internal communication between enterprises, therefore, effectively makes it harder for them to establish anti-competitive collusion or to maintain such a practice.

The potential for horizontal collusion is usually greater the smaller the number of enterprises involved and the more homogeneous their products are. Enterprises can meet in secret and enter into agreements of various kinds. In February 2005, the Market Court ruled that the major petrol companies operating in Sweden had been guilty of a serious infringement of the Competition Act by reaching an agreement on discount prices. The companies were given administrative fines totalling SEK 112 million. The court found that the process had been coordinated and that all the companies had actively shared information on price levels and discounts. In the construction and civil engineering sector, cartels have been exposed and there are suspicions that competitors have engaged in anti-competitive collusion in various forms. One example is to be found in the asphalt-laying industry, where 11 companies are suspected of having divided up the market among themselves and of having jointly agreed on prices during the period 1993-2001.

The construction and civil engineering sector (see below), incidentally, exhibits a number of the characteristics that increase the likelihood of unlawful cartels developing and operating over time. Oligopolies are one factor. Another is non-differentiated products (at least in the civil engineering sector). Moreover, there are significant barriers to entry and exit, which act

as a hindrance to newcomers and give established enterprises a greater chance of maintaining successful cartels. The vertical integration that is strongly evident in the sector also has an adverse effect on such factors as entry opportunities for new enterprises capable of competing for major construction projects. In addition, actors in the construction sector have traditionally cooperated in trade organisations on such matters as the standardisation of products and processes, etc.

In the above cases, a small number of companies have been active and have entered into, or are suspected of having entered into, horizontal agreements via explicit contracts or the like. Such agreements, however, are not a prerequisite for those wishing to restrict competition in industries where only a few enterprises operate. There is strong support for the view that competition can be restricted in oligopolistic markets when enterprises manufacture similar products and cost conditions are very much the same. In such cases, the enterprises involved are highly dependent on one another, a fact that is reflected in their decision-making. One or several companies may, for instance, let it be known in advance that prices are about to be changed or production reduced at a certain point in time, and such an admission must be regarded as a signal that it wants the others to cooperate. Cooperation takes the form of tacit collusion, and the aim is for the companies concerned to make a higher profit than they would otherwise have been capable of if they had been competing with one another. Examples of such industries include the fuel market (petrol and diesel prices) and the market for electrical power production.

When there are a large number of competitors in the market, and cooperation between enterprises becomes more difficult, a joint organisation representing them – a trade organisation – may reduce their intercommunication costs, which in turn reduces their coordination problems. Since the Swedish Competition Act became law, the Competition Authority has ruled on a number of cases where trade organisations have been involved through the issuing of price recommendations, calculation standards or company-specific statistics such as prices and quantities. In most cases, this kind of information sharing has been judged unlawful. Most of these industries are made up of a large number of enterprises, while at the same time many of them are small and operate locally. Consequently, there is a fairly good chance of rapidly detecting those who fail to comply with a recommendation or an agreement.

Price discrimination

In the autumn of 2005, the Competition Authority organised an international conference of researchers on price discrimination. To coincide with the event, a conference volume was presented written by leading researchers in this field.

Put simply, price discrimination involves a seller offering two customers the same product at different prices. Examples include discount fares for children and pensioners. Price discrimination may also involve a situation where the seller offers non-differentiated products at differentiated prices but where the price difference does not correspond to the difference in cost. Or the seller may offer differentiated products (with different manufacturing costs) at the same price. An example of the former might be two virtually identical models of a laser printer, but where one of the models prints at a slower speed. An example of the latter might be standard prices on taxi journeys despite the fact that the journeys differ in length.

When companies engage in price discrimination, this often favours the consumer. In some cases, though, it may lead to adverse effects for the consumer community. In cases where price discrimination is applied by a dominant company in *combination* with excluding practices, or as part of such a practice, this may impact negatively on consumers. It is mainly

in situations of this kind that the Competition Act's prohibition on price discrimination has been applied in case law.

Competitive barriers in the industries under review

A number of markets in the Swedish business sector are characterised by a high level of concentration. In numerous industries, the four largest players (companies or chains) account for some 80 per cent or more of total sales in Sweden. This applies for instance to many suppliers of input goods in the construction sector and to a number of convenience goods suppliers. Concentration is also significant in construction and civil engineering work and in the wholesale and retail trade in convenience goods. These areas are also marked by vertical integration. In addition, concentration is high in the financial sector as regards borrowing and lending to private customers and insurance activities, as well as in the energy sector. The health and medical care sector, too, is characterised by a high level of market concentration.

High concentration may be a sign of inadequate competition. As this report shows, it may result in companies being able to exercise their market power and thus abuse a dominant position. Also cartels usually make their appearance in concentrated markets. Furthermore, cartels have a greater chance of being able to operate over time if the market is concentrated.

A high level of concentration may, however, be only a minor problem if the potential for market entry is good or if there is substantial competition from imports. In several of the industries described in this report, however, there are significant entry and exit costs, as well as other barriers to establishment. Also, competition from imports is limited for the majority of the industries under review.

Below is a summarised account of the various competitive barriers discussed in this report.

Construction and civil engineering

A distinguishing feature of the construction and civil engineering sector is that considerable investment in plant and machinery is required prior to start-up. Rock crushing and cement and asphalt production are among areas that are associated with very high entry costs. Manufacturing in these areas is characterised by substantial economies of scale. This means that new actors have little chance of entering the market, at least in the case of small enterprises with small-scale production. Also, exit costs in the form of remediation, etc, tend to be sizeable in these fields.

Moreover, the large construction companies are often vertically integrated in terms of access to the requisite materials. This means that the many small enterprises operating in the market have no real possibility of taking on major construction projects. Instead, they have to confine themselves to smaller projects, often as subcontractors to the major enterprises.

The way public regulations are applied is also a significant factor affecting the ability of companies to enter different markets. In the construction and civil engineering sector, both the way municipalities distribute development land and the municipal planning process under the Planning and Building Act represent important entry barriers. In the case of land development, the municipalities can restrict competition when allocating or selling sites by deciding which enterprises are to be allowed to produce real estate. Employment policy considerations, for example, may underlie the way land is distributed, which may benefit local construction companies or a local manufacturer of construction materials. Also, land is sometimes sold before the planning process under the Planning and Building Act has been completed. In practice, lack of resources and/or capacity at municipal level may also result in

the large construction companies being allowed, on request, to take responsibility for the physical planning of development land. Thus land distribution may favour large, established companies in the market. This represents a barrier to start-ups for small construction companies and companies that are not established in Sweden.

Accordingly, companies may feel there is a significant risk in purchasing land as they cannot be sure they will be allowed to engage in the profitable development of real estate on it. Large companies rich in capital can 'insure' themselves against this by purchasing wide swathes of land, thereby guaranteeing that at least part of it can be used for housing production, for instance. Thus small enterprises without the resources to buy land on a large scale risk being left in an unfair position vis-à-vis the major actors.

The lack of import competition for construction products is partly due to the fact that some construction companies prefer to use previously tested products, or it is sometimes due to developers being reluctant to break with their local supplier network. Also, there are technical trade barriers between the EU countries that complicate import competition in construction materials. This problem may soon be solved, however, through the efforts currently under way to harmonise construction standards in the EU. This work has been in progress for over ten years, and is due for completion in 2007. Under the EU's Construction Products Directive, member states are to strive for European harmonisation in order to establish a single market for construction and construction products.

Convenience goods trade

In the case of convenience goods trade, too, application of the Planning and Building Act represents a significant entry barrier. The Competition Authority has dealt with this in a number of reports, and in other ways as well. Most recently, in June 2004, the agency proposed that the law be amended in certain respects to give the competitive dimension greater priority in planning. It also proposed better application of the law aimed at lowering the barriers to establishment for retail traders. A more competition-oriented application and formulation of the Planning and Building Act could force down consumer prices, enhance diversity and improve quality in the market.

The way the law is applied is not the only barrier to competition in the convenience goods trade. Suppliers provide the chains with goods that are sold on to the consumers. For these suppliers, it is important to reach as many consumers as possible. This means they must ensure that they are part of the chains' product range. How the various products are displayed in the stores is also of considerable importance. Often, negotiations take place between retailers and suppliers on how this is to be done. As a rule, this benefits consumers as it forces down supplier margins and may thus result in lower prices to the consumer. However, the Norwegian Competition Authority – Konkurransetilsynet – has noted that in principle supplier companies sometimes pay to avoid having to compete with other suppliers. In such a situation, the result may be higher consumer prices. According to the Norwegian agency, this may also reduce the range of products. Problems of this nature have a serious excluding effect if there is market concentration at the retail level. Given the structure of the Swedish market, the problems that have been observed in the Norwegian market may develop in Sweden as well.

One fear that has been expressed in the public debate is that the growing presence of private brands in the convenience goods trade may in time deplete the range by forcing small supplier brands off the stores. It is also argued that both quality and research and development may suffer as a result of the growth in private branding in the Swedish food retail sector. On the other hand, an increased proportion of private brands may make for stiffer competition

vis-à-vis established, often multinational supplier companies. This applies not least to chemo-technical convenience goods (i.e. detergents, cleaning products, toiletries, etc) where, through their established brands, the major retailers are able to provide consumers with an alternative. The increased pressure on suppliers has led to lower consumer prices.

Markets exposed to regulatory reform

As noted above, previous monopoly markets such as telecommunications, electricity and domestic aviation have undergone sweeping changes as a result of technological progress, internationalisation and new patterns of customer demand. In the EU, directives of various kinds have also generated change in these fields. However, progress among member states has varied as regards enforcement of the regulations, which is affecting market entry opportunities for new actors in different countries. In the electronic communications field, the European Commission has taken action against member states who have not made sufficient progress in their work on implementing the new regulatory framework.

When market conditions change, regulators face special kinds of problems and conflicts of goals. An entry regulation may be highly complex if it has to satisfy a number of different interests, particularly if these interests conflict. To facilitate entry into markets, entry prices should be kept low. But (excessively) low entry prices reduce the incentive to invest in infrastructure, and without competing infrastructures regulation cannot (in principle) be abolished. Designing a regulation, therefore, is both about creating the right investment incentives and about ensuring low entry barriers. The development of efficient entry regulations has in some cases been circumscribed by the fact that the experience gained in one industry, in Sweden or elsewhere, has not been properly turned to advantage in other industries facing the same kinds of problems.

Also, as far as possible, a regulation must be both predictable and stable in character. New enterprises entering a market want to be confident that the regulatory framework will not be changed, or at least will only change in predictable ways. Uncertainty over the outcome of the protracted court proceedings currently under way in Sweden concerning market analyses and decisions on various obligations in the electronic communications field, is not making market actors more inclined to invest.

Another factor affecting outcomes in various parts of the electronic communications market is the setting of interconnection charges. The current charge levels for the termination of calls in the mobile network – combined with the fact that the charge is a variable one – are generating adverse effects, known as price squeeze effects, for operators who are unable to market subscriptions of the kind sold by for instance TeliaSonera to its end customers. These operators then risk being squeezed between a high variable charge for the termination of calls in the mobile network and an end-customer price consisting of a fixed charge and a low variable charge. This applies primarily to fixed network operators who are not active in the mobile market as well.

In the electricity market there is continued uncertainty over the impact of the planned nuclear phaseout in terms of future investment potential. Investment prospects in this market are also crucially affected by fiscal and environmental policy decisions and by often protracted licensing processes.

Furthermore, the Swedish electricity market features a high concentration of a few major actors, and significant barriers to establishment are present, particularly in the power production field. Electricity supply in the Nordic market is less concentrated, but this market, too, is dominated by a small number of major enterprises. The state has a large proprietary interest in the companies that lead their respective national markets. Electricity production is a

capital-intensive activity, and acquiring the necessary permission to construct power plants is normally associated with severe difficulties and long time frames. In Sweden, a decision has been taken to phase out nuclear power, while at the same time, as a result of policy decisions, there is little opportunity to expand hydroelectric power delivery. As a result, there is only limited scope for companies wishing to enter the market with new competitive production. Efforts are under way to promote electrical power production from renewable sources.

The financial sector

Competition in the financial sector has increased. This is particularly true of household borrowing and lending. Also, the range of services has widened. Companies established in the market have broadened their operations, while new actors have arrived on the scene. A trade shift between the banking and the insurance sectors has played an important role in this respect. Most financial markets, however, are still characterised by high concentration. Contributory causes include locking-in effects and a labyrinthine system of charges. In practice, a new banking operation cannot be established without access to the banks' payment systems. Membership of these systems is required for cash withdrawals, card payments and credit transfers. In practice, therefore, membership is essential for any bank wishing to compete in the market. If the terms of admission to these payment systems are applied in such a way that they place newcomers and small actors at a disadvantage, this can hamper market entry. From a competitive viewpoint, therefore, it is important for new banks to be granted access to the payment systems on objective and non-discriminatory terms. The Competition Authority was assigned by the Government to review the question of whether the terms of admission to the banks' payment systems may represent an obstacle to small actors and new arrivals in the market. The report was presented on 31 January 2006 at the latest.

Adjustment costs to the consumer in terms of the labyrinthine system of charges and the difficulties involved in comparing different banking prices mean that consumers are less motivated to switch banks. As a result, newcomers and small financial actors are finding it hard to recruit customers. An additional factor contributing to less mobility among consumers is the capital gains tax imposed when shares in securities funds are sold. The Competition Authority has previously argued in favour of a postponement of this tax when savings are transferred from one fund to another – a measure that is likely to enhance customer mobility.

The insurance market, too, is characterised by low consumer mobility and significant locking-in effects, primarily in the life insurance field. The new Swedish law governing insurance agreements, under which newly-subscribed life insurance policies may be transferred at any time, may enhance customer mobility and thereby in time contribute to better competition. The fact that the new law does not extend to all life insurance savings, old and new alike, reduces the benefits, however, and means that the locking-in effects in this area will largely persist. In the case of general insurance, the locking-in effect is due to consumers being unable to switch companies during the statutory period of agreement.

Health and medical care

Lack of competence among purchasers has been noted in a number of studies, both when determining needs and purchasing care. The follow-up process is also generally considered flawed in the health care sector. There are rules limiting start-ups, and companies are strongly dependent on public financing. This acts as a restraint both on supply and on consumer choice. New provisions in the Health and Medical Services Act prohibit county councils from

handing over the running of hospitals to providers operating on a profit basis. Consequently, the care has to be provided exclusively by means of public financing and care fees.

Today, there are many privately-run health care centres in Sweden, but the number of doctors in private practice is declining rapidly. County councils are also restrictive about concluding care agreements with newly established private doctors. This reduces both consumer choice and the number of potential bidders for primary care contracts.

The Supreme Administrative Court has ruled that there are two acceptable ways of applying for and being granted reimbursement for health care and dental care in other EU countries. One is to seek advance permission based on Article 22 of Council Regulation (EEC) No. 1408/71, as before. The other is to be granted compensation retroactively based on Articles 49 and 50 of the EC Treaty regulation on the free movement of services. In both cases, the state is responsible for financing the care via the Social Insurance Office. Care in Sweden, however, is largely financed by the county councils, who may thus have an incentive to refer patients to care providers in other countries for certain kinds of treatment. Compensation under Articles 49 and 50 of the EC Treaty regulation is payable even if the care is supplied by a private provider. This adversely affects Swedish care providers selling their services outside the public health care system. This competitive restraint may lead to a reduced supply of private alternatives in the Swedish market, which would be detrimental to consumer choice.

Assessments

On the basis of the findings of this report, the Competition Authority wishes to focus attention on the following measures as a means of enhancing competition and consumer benefit.

Internationalisation should be regarded in a favourable light

Endorse the trend towards greater internationalisation and competition Competition has improved in the Swedish market as a result of a higher volume of imports from major economies under development, the application of information technology and the EU's enlargement to 25 member states. It is important to endorse this trend. Seeking to restrict markets by means of trade barriers and other constraints is not a prudent course. A market open to the outside world facilitates the import of goods and services that strengthen competition and thus help bring about economic growth and greater welfare. This works to the benefit of consumers through lower prices, a broader range and better quality in goods and services.

Creating better opportunities for the development of competitive analyses

Develop methods for measuring the causal connections between price levels and competition. As noted above, Swedish prices are judged to be higher than the average in several countries in our vicinity. Differences in price levels are an indicator of competitive pressure in a country compared to other countries. Price gaps between regions in a given country are usually a better measure of competitive disparities than price gaps between countries. There are, however, a number of significant methodological problems associated with price level comparisons. These partly have to do with the complexity of the connections and thus of the analytical models, and are partly due to the frequent lack of relevant statistics.

In view of this, further and deeper analyses of price levels and competitive conditions must be undertaken, and researchers from academia both in Sweden and abroad must be brought into the work. Thus it is the opinion of the Competition Authority that the agency should be given an ongoing mandate to conduct analyses of the causal connections between price levels and competitive pressure, both between and within countries, in cooperation with the research community and other public authorities.

Assign Statistics Sweden to analyse, in cooperation with the relevant sectoral authorities, the possibility of providing separate reports on price movements in markets exposed to regulatory reform. The Regulatory Reform Commission proposed that the National Post and Telecom Agency be assigned to examine, in cooperation with Statistics Sweden, whether it is possible to compile separate figures in the Consumer Price Index (CPI) for various types of telecommunications services, or whether alternative indexes can be developed that measure price movements for these services. Such statistics would indicate whether a regulatory reform could be deemed a success or not. Under the proposals, the data would have to be collected and reported on a regular basis. Commenting to the Government on the commission's proposals, the Competition Authority expressed support for such a course but felt that the scope of the reporting should be widened to embrace other areas besides electronic communications. The Competition Authority therefore recommends that Statistics Sweden be given responsibility, in cooperation with the relevant sectoral authorities, for the collection of data such as price information from companies operating in markets exposed to regulatory reform, so that price movements and other trends in these fields may be properly reported.

Assign Statistics Sweden to develop appropriate statistics for competition analyses, in cooperation with the Competition Authority. Corporate concentration is high in several business areas in Sweden. Statistics of this type (industrial statistics) are also used by competition authorities (including the Danish Konkurrencestyrelsen) and other actors which assess corporate concentrations in various parts of the business sector. The figures, however, are not primarily constructed to facilitate competition analyses, and are therefore rarely suited to such a purpose. If the available statistics are to be of use, the companies in the selected industry must be in competition with one another, and companies in other industries must not be in competition with companies in the industry under review. Another precondition is that imports must be limited. There is a need for statistics that are structured in such a way as to allow for comparison and analysis of competitive indicators such as corporate concentration and mobility, profit and productivity criteria, price movement, and price levels, etc, in different markets. In view of these considerations, the Government should assign Statistics Sweden to develop, in cooperation with the Competition Authority, methods for the formulation of relevant statistics that can be used for the development of competition indicators for markets in the Swedish business sector.

Creating more efficient markets

Supervision and sanctions relating to public procurement should be reviewed The overall purpose of the regulations governing public procurement in Sweden is to enable public and private actors to compete on equal terms for public contracts involving the purchase of goods and services. If suppliers are not treated equally, competition becomes distorted, to the detriment of both the public good and the country's consumers. It is worth noting that in the procurement sphere both public controls and the agency structure in regard of supervisory

matters, etc, are fragmented. The Competition Authority is required to ensure that companies competing in a bidding process do not violate the competition rules, while the National Board for Public Procurement supplies information and follows up how the procuring bodies enforce the regulations that apply. Thus the latter has a very broad area of responsibility and supervision. Moreover, it is doubtful whether the organisation of the agency – where decisions are taken by a joint committee – is appropriate, given that its main task is to take a position on legal matters relating to the procurement rules. A problem of some note is that a government agency is not able to institute legal proceedings in the event of a serious violation of these rules, such as unlawful direct procurement. Giving the authorities supervising procurement the power to sue for a market distortion fine in response to such violations would further encourage actors to comply with the rules.

Simplify the rules in certain cases to facilitate the participation of small enterprises in public procurement. Small enterprises must be given a better chance of winning public contracts. The current regulations make it particularly difficult for these enterprises to participate, which in certain cases may be grounds for simplification. There would appear to be scope for simplifying the rules for procurement below the threshold level, i.e. for purchases that are not directly governed by EU directives. A simplification of the rules ought to be possible without negating the requirement whereby public purchasers have to treat suppliers objectively and in conformity with the law.

Certain kinds of information sharing between enterprises restrict competition. The Competition Authority is of the opinion that information sharing must be restricted where the risk of horizontal, anti-competitive collusion is substantial while the potential gains in efficiency from such sharing are few. Greater access to information on prices and demand reduces consumer search costs and may also make it easier for companies to reach investment decisions, which is of socio-economic benefit. At the same time, such information, especially when it is provided to companies alone and not to consumers, may facilitate the conclusion of cartel-like agreements. Information sharing on future prices between competitors, for instance within a trade organisation, may be a way of arriving at agreements, whereas information sharing on historical prices and sales volumes is designed to ensure compliance with such an agreement. As long as this type of information sharing is not available to the general public, and thus does not involve any kind of commitment vis-à-vis consumers, it should in principle be prohibited. It should only be allowed if the companies concerned are able to show that such sharing is absolutely crucial to the achievement of greater efficiency. The risk of anti-competitive effects is substantially reduced if the information is adequately disaggregated and also out of date. In contrast to the situation for company-specific data, the potential for efficiency gains here is considerably larger. This means the agencies responsible for enforcing the Competition Act must assess each case individually.

The regulations governing today's state monopolies should be brought into line with developments. The legal monopolies for the retailing of medicines (the pharmaceutical monopoly), for alcoholic beverages (the alcohol monopoly) and for commercial gaming (the gaming monopoly), are currently under challenge as a result both of technological advance and of EU enlargement, and also on legal grounds. In view of this development, it is questionable whether the monopolies in their present form fulfil their purpose. A sizeable share of the Swedish population already engages in betting and other forms of gaming, via the Internet, offered online by foreign-based companies providing gaming services in Swedish. A large and growing share of the alcohol consumed in Sweden is purchased in another EU country. As regards the agreement between the Swedish state and Apoteket AB, the monopoly

retailers in the pharmaceutical trade, the European Court is of the opinion that it does not conform to Community law. In general, wider markets are of benefit to consumers. The Swedish Competition Authority's conclusion in the present case is that fulfilling the policy objectives which are the point of these legal monopolies already seems to be a problem. Current developments are expected to lead to even stronger calls for the monopolies to be transformed. In view of the above, the Government must formulate regulations under which present policy can be achieved in the future.

Municipal land distribution is of major competitive importance in the construction sector.

As a result of the sale of municipal land rights before planning under the Planning and Building Act has been completed, small enterprises tend to be denied access to commercially interesting development land. The practice of sometimes giving large construction companies responsibility for the physical planning of development land may cut costs for individual municipalities in the short term but in practice creates competitive barriers for both small enterprises and newcomers in the market. The Competition Authority takes the view that in their role as land distributors, municipalities could exert a far more substantial competitive influence than is often the case at present. This would boost consumer benefit in the form of lower construction costs.

The way planning and building provisions are applied remains a significant barrier to establishment in food retailing. It is the municipalities who are responsible for planning processes and consequently for enforcing the Planning and Building Act. The way the law is applied affects competition in the convenience goods trade. As recently as June 2004, the Competition Authority proposed that the law be amended and that steps be taken to bring application of the provisions more closely into line with consumer benefit. The Planning and Building Act Committee that presented its report to the Government in the autumn of 2005 has not proposed any changes of the kind previously recommended by the Competition Authority. Bearing in mind that an application of the law based on consumer demand could enhance welfare through lower prices, greater accessibility, a wider range and better quality products, the Competition Authority would like once again to draw attention to the proposals it presented in the spring of 2004 and which would attach greater weight to consumer interests when the law is applied.

Nordic integration of the electricity market should be carried through. Developing an efficient joint Nordic market to offset the effects of concentration in the Swedish market is a matter of crucial importance. The existence of bottlenecks in transmission systems means that the Nordic market still cannot be regarded as fully integrated. Better links within the Nordic region and with Europe, therefore, are essential. Regulations and other components also need to be harmonised in order to develop a joint Nordic market for end customers.

Encourage new businesses and initiate moves to restrict joint ownership in the electrical power production sector. The market for the production of electrical power is concentrated, has few actors and presents high barriers to newcomers. No new nuclear power and in principle no new hydroelectric power can be introduced in Sweden. The planned nuclear phaseout has also led to uncertainty over future investment potential. A further adverse effect of the phaseout is that it has led to a greater degree of joint ownership between the two major Swedish electricity producers, Vattenfall and E.ON Sverige. When companies cooperate in the nuclear and hydroelectric power sector, there is a serious risk of sensitive information being shared, while at the same time cooperation limits competition between enterprises. Also, it is an important cause of lack of confidence in the workings of the market. The high

level of joint ownership that exists in Sweden means that the three largest electrical power producers can influence supply within the country and thus price levels both in Sweden itself and in the Nordic market. By applying clearly defined, long-term energy policies, the state should seek to encourage both investment in electrical power production and the establishment of new enterprises. The special wind power advisory council established by the Government to facilitate the introduction of further capacity represents a promising initiative, but the mandate should be widened to embrace other interesting production technologies as well, such as hydroelectric power, natural gas and bioenergy. In its role as owner of the largest actor in the market, Vattenfall, the state should also take steps to restrict joint ownership in Swedish electrical power production.

A clearer distinction needs to be made between competitive activities and network monopolies in the energy sector. A clear-cut organisational and functional line needs to be drawn between network monopolies and competitive activities in order to counteract cross-subsidising and anti-competitive information sharing. Such a move would also make it easier to supervise operations as intended. The current rules concerning the separation of network activities and other activities in the energy market are inadequate. This is one of the reasons why many independent electricity companies, business customers and electricity consumers lack confidence in the efficiency and non-discriminatory nature of the market. A transition to an ex ante regulation system from the present model, where regulation occurs ex post, would also help raise quality and enhance efficiency in network supervision.

A central register of electrical plant would facilitate supplier switching and strengthen competition. Independent electricity suppliers operating nationwide state that they are having problems obtaining correct information from the electricity network companies in connection with changes of supplier. The Electricity and Gas Market Committee has recommended the establishment of a central register of electrical power plant to facilitate the switching process. Such a register, however, would need to be strengthened by the addition of further functions. First and foremost, this should include data on the latest meter reading. This would mean that all the relevant market actors would have access to the most recent meter data, which would reduce the risk of uncertainty and delays that complicate the switching process. With the gradual introduction of monthly readings and more hourly metering, there will be a major increase in the demand for correct and rapid reporting of meter information. The register, therefore, should also function as a communications centre between the network companies and the electricity suppliers. This would lead to faster and safer switching procedures, greater confidence in the workings of the market, increased mobility and a level playing ground between market actors.

More frequent metering should be introduced for electricity consumption. Progress in the electricity market should be based on technological solutions and the kinds of agreements that promote greater flexibility on the demand side. Such systems would strengthen the position of customers on the market in general by giving them a greater chance to actively influence their power costs. Greater flexibility presupposes more frequent metering of electricity consumption. Monthly readings are a step in the right direction, but additional advantages could be accomplished through even more frequent readings. Sweden, therefore, should consider introducing hourly electricity metering to pave the way for agreements under which consumers could respond to price differences on the electricity exchange or be offered fixed prices for various points in time (price per hour, day/night, weekday/weekend, seasonal, etc), and could adjust their consumption accordingly. Such a course would be beneficial from both an efficiency and a competition viewpoint. Electricity customers would be able to send clear

signals to the market showing that higher prices lead to lower sales. This in turn would strengthen the position of the consumer in the market. Prices are often high during peak consumption periods when the power grid is severely burdened. Greater flexibility among electricity customers, therefore, would have a favourable impact on the balance between production and consumption, lead to a more efficient use of the grid and thereby reduce the need to expand it.

The EU's emissions trading system has strongly influenced electricity prices and should be reassessed. Considerably higher electricity prices have led to a discussion on whether the trading system is well designed and whether it has had effects other than the anticipated ones. Normally, economic incentives of this kind help bring together environmental objectives and competitive considerations, and the use of such incentives should therefore be stepped up. The system currently in place, however, is flawed and could be improved. In particular, the overall efficiency of the system is limited by the fact that it is exclusively European in character, whereas the problem to be solved is a global one. Greater efforts to bring about an international expansion of the trading system must therefore be made. Also, the principles governing emission rights allocation in Sweden must be reviewed and the system needs to be harmonised throughout the EU. The present trading system is far too limited in scope as it does not include areas generating substantial emissions, such as the transport sector. The principle whereby free emission rights are granted on the basis of historical emissions is fundamentally flawed. Allocations should follow benchmarks, and the aim should be to auction off emission rights as far as possible. Sweden should work actively to bring about a change along these lines in the EU's emissions trading directive.

Accelerate enforcement of the regulations governing electronic communications and adapt them to market developments. Speedier enforcement of EU regulations would reduce the risk of different terms and conditions being applied to operators and end users in the various member states. Under the EU directive, decisions are subject to appeal, but some countries have introduced special procedures in this respect. Time limits may also be needed in Sweden, where uncertainty over the outcome of various processes is not designed to strengthen companies incentive to invest, which means it benefits neither competition nor consumer welfare. Anticipated market developments in the electronic communications sphere will pose a challenge to the regulatory authorities. While regulators may be tempted to step up regulation, rapid technological advance in this area may create opportunities for the reassessment or abrogation of current rules.

Promote flexibility in the electronic communications field by giving telecom operators the chance to choose from a 'menu' of different combinations of fixed and variable interconnection charges. The problem of what are termed price squeeze effects – i.e. when companies are squeezed between high wholesale prices and low end-customer prices – could be alleviated if operators were given the opportunity to choose from a 'menu' of fixed and variable interconnection charges instead of having to choose an average variable charge. This would also provide better entry opportunities for newcomers. In other words, it would lead to greater competition and diversity.

Steps should be taken to reduce consumers' bank switching costs. It has been noted that customers often have problems learning how to use a new Internet and telephone banking system or when changing account numbers and PIN codes in connection with a bank switch. Also, many consumers find it difficult to make rational comparisons of the services offered. Measures to facilitate bank switching are therefore desirable. In addition, there are

administrative obstacles that add to the consumers' switching costs. One example is the imposition of a capital gains tax when people switch equity funds (that have grown in value). In light of the above, it would be appropriate to investigate the possibility of eliminating administrative and legal obstacles to such switches, both within the country and in relation to actors in other countries. One measure that might be considered is to allow consumers to keep their bank account numbers when switching banks (account number portability), and, as the Competition Authority has recommended previously, to delay imposing a capital gains tax on the sale of equity fund holdings until the final sale takes place.

Review the legal obstacles that lock in consumers in the insurance sector. The new law governing insurance agreements is expected to lead to long-term competitive improvements in the life insurance field as the right to repurchase and transfer newly-subscribed policies thus becomes statutory. Locking-in, however, may persist in the case of old savings. As regards general insurance, while the statutory periods of agreement are relatively short, usually one year, the Competition Authority takes the view that competition would be encouraged by giving policyholders the opportunity to switch companies during the agreement period as well, not just when the policy expires. It is important, therefore, to review and amend the regulations in these areas so that consumers may (more easily) switch insurance companies.

Analyse the health care sector from a consumer perspective. Different types of companies are needed in the health care sector in order to enhance innovation, diversity and consumer benefit. The provisions in the Health and Medical Services Act prohibiting the county councils from handing over the running of hospitals to profit-driven entrepreneurs or to entrepreneurs intending to conduct operations with mixed financing may restrict supply in the hospital care sector. Today, many health centres in Sweden are in private hands, but the number of doctors in private practice has declined steadily as a result of retirement and a reluctance on the part of county councils to conclude care agreements with newly established doctors. If this trend continues, it will reduce both consumer choice and possibly the number of potential bidders for primary care contracts as well. It is the state that is responsible for financing health care provision in other EU countries when reimbursements for care costs are based on Articles 49 and 50 of the EC Treaty or on Article 22 of Council Regulation (EEC) No. 1408/71. Care in Sweden, however, is largely financed by the county councils. Joint responsibility for financing would be a better incentive in terms of priorities and resource distribution in the Swedish health care system. In Sweden, patients treated outside the public health care system are not entitled to reimbursement, whereas under Articles 49 and 50 of the EC Treaty reimbursement is payable even if the treatment is supplied by private care providers. In light of the above, the Competition Authority believes it is vital from a consumer viewpoint to appoint an inquiry able to adopt a concerted approach to important factors such as accessibility, quality, prices and financing in the Swedish health care sector.

This report provides a brief overview of the competitive situation in Sweden. Areas of major importance to consumers have been studied, including construction and civil engineering, the convenience goods trade and markets exposed to regulatory reform during the 1990s, such as the telecommunications market, the domestic aviation market and the electricity market. These sectors have been affected to different extents by both increased competition from foreign companies and new consumption patterns, and this is discussed in the report.

In addition, the report contains descriptions of various kinds of behaviour aimed at restricting competition. Particular attention is drawn to certain types of information-sharing between enterprises in pursuit of anti-competitive horizontal agreements. The report ends with an assessment of possible ways of enhancing competition and consumer benefit in Sweden.