

Director-General

The Pros and Cons of High Prices

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Opening Address of Director-General Mr. Claes Norgren

I am very pleased to welcome you to today's seminar on the Pros and Cons of High Prices. When I look around in the audience I recognize many colleagues, lawyers and academics and I'm particularly happy to see that so many of you have travelled from abroad to be here with us in Stockholm today.

Attacking high prices is often what the public in general perceive as the core activity of a competition authority. Yet, there are very few cases where we competition authorities actually use their competition laws to combat high prices. We are of course using the competition law against price-raising cartels, price-raising mergers and abusive conduct that may result in high prices in the future, but direct attack on high prices as such is uncommon. I am sure that today's seminar will shed light on why this is so.

Even though we generally take a cautious approach to investigations on excessive prices, we at the Swedish Competition Authority, have two ongoing investigations at present. Both of them are into the pricing of district heating. I should perhaps mention that district heating is very common in Sweden and in particular of course in the big cities and medium sized cities. It is a utility that can be seen as a natural monopoly; there is only one supplier – sometimes private - in each network and no third party access. We have argued that a stringent sector regulation should be introduced for district heating. At present, there is hardly any sector specific regulation and hence the pricing is unregulated. In today's newspapers the CEO of the trade association argue for a soft arbitration of disputes on prices. The question is if such a soft mechanism is effective or not. However, we have started analyzing the pricing of two different district heating companies (in two cities) to see if the prices are excessive. If they are, should we not try to use competition law to attack them?

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High prices might in the short run be bad for consumers, but how to assess this in the long run? Will high prices result in profit that lead to new entry and innovation? If so, then the situation is different. Since this mechanism is crucial for markets to work, it is important to have a dynamic perspective and to be cautious to intervene when there e.g. are signs of infrastructure competition. The current debate in Europe of functional or structural separation in Telecom markets is an example where these dynamic considerations emerge.

It is widely acknowledged that analyzing excessive pricing is a complex task as regards the scope of the legal and the economic analysis to be undertaken. Today, we will learn how to better distinguish between the cases that can be attacked with competition law and those that warrant other measures or should not be subject to any intervention at all. This is in my view crucial not only for academics but even more so for any practitioner dealing with an excessive pricing case. And we will certainly take what we learn here today back with us to be applied in our daily task of making markets work better.

Today's seminar should also be put into the perspective of the European Commission's review on its policy on article 82. Some of us here today just arrived from Brussels where the direction of this review was discussed. Although exploitative practices have not yet been addressed in draft guidelines, the question is if and how they should be addressed in the future. Today's seminar and this year's edition of Pros and Cons will hopefully be a good illustration of the issues and challenges at hand.

This is the sixth edition of our Pros and Cons seminars. The first one - on the Pros and Cons of Merger Control - took place in 2002. One of the contributors to that first seminar is here today - but in a new role. I am very pleased to give the floor to our moderator. Damien Neven, the floor is yours.