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Global Forum on Competition

IMPROVING INTERNATIONAL CO-OPERATION IN CARTEL INVESTIGATIONS

Joint contribution by Denmark, the Faroe Islands, Finland, Greenland,
Iceland, Norway and Sweden

-- Session II --

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THE NORDIC CARTEL NETWORK: A REGIONAL MODEL FOR COOPERATION BETWEEN CARTEL UNITS OF COMPETITION AUTHORITIES

-- Joint contribution by Denmark, the Faroe Islands, Finland, Greenland, Iceland, Norway and Sweden --

1. The Nordic Competition Authorities established in 2000 a model for cooperation between their respective units for cartel investigation, the Nordic Cartel Network (NCN). The purpose of the cooperation was solely practical: Discussing cases and case collaboration, investigating techniques and other cartel and investigation issues of mutual interest. The model has required very limited administrative resources. This paper gives a brief overview of the cooperation model, its organization and recent developments.

1. Origins

2. The NCN traces its origins to an informal meeting in Copenhagen in 2000 between the cartel units from the Nordic Competition Authorities. The purpose of the meeting was to discuss cases and the potential for further collaboration.

3. It should be noted whereas Denmark, Finland and Sweden are members of the European Union (EU), the remaining countries have different legal agreements with the EU. A formal agreement on the exchange of confidential competition related information exists between the authorities of Denmark, Iceland, Norway and Sweden.

2. Organization model

4. Since the founding meeting in 2000 the NCN has followed a pattern where the designated contact persons in the respective countries (1 - 3 persons from each country) meet once a year in a lunch-to-lunch meeting with rotating hosts. The meetings include representatives from Denmark, Faroe Islands, Finland, Iceland, Norway, Sweden, and, from 2010, Greenland.

5. The meetings follow a regular pattern with review of cases from the past twelve months, ongoing cases and forward plans. Experiences with cases, project management, investigating techniques, IT-forensics, etc., are discussed in detail and candor, and two or three topics of current interest are usually presented with prepared contributions.

6. The NCN has made an important contribution to the low threshold in cartel cases and cartel matters in getting in touch and obtaining assistance and advice from colleagues in other Nordic countries, on a bi- or multilateral basis. Important factors enabling this are:

- The Nordic Countries have many cultural similarities
- The Nordic business communities also have many similarities, i.e. large international companies often have a common Nordic office situated in one of the Nordic capitals

- The competition legislations of the Nordic countries are mostly based on EU-legislation and have many similarities
- Many common investigating techniques and challenges
- Low turnover of many of the contact persons, thus enabling a large degree of "corporate and cooperation memory"

7. Members of the NCN will often confer on a bi- or multilateral basis with Nordic colleagues prior to making investigations in a business with possible links to other Nordic countries. The contact persons will also routinely notice each other shortly before a coming dawn-raid.

3. Recent developments and future

8. Since the founding of the NCN in 2000 the cooperation within the network has increased and become even more intense over the recent years. The cartels units in each Nordic country are for example instructed to always evaluate if there is a Nordic dimension in a national case. The increased early information exchange between the Nordic Competition Authorities also enables coordination of different investigative measures and decreases the risk of under enforcement in each country.

9. As already mentioned the members of the whole network meet at least once a year but the interaction has been intensified over the last year when multilateral telephone conferences twice a year between all participating countries have been introduced. The telephone conferences enable the members to keep each other more updated regarding plans and national cases that could be of interest for the other countries between the yearly meetings. The use of and the frequency of the telephone conferences should however be evaluated after two years according to an agreement between the Nordic Director Generals in 2010.

10. Apart from the multilateral meetings and telephone conferences there have also been both bilateral and trilateral meetings in specific cases. These meetings have shown to be especially fruitful if the suspected companies operate in more than one Nordic country. A joint leniency case between Sweden and Norway is also an example of a more case oriented cooperation although the cooperation between the Nordic countries also enhances exchanges of views regarding different investigative techniques like for example IT-forensics.

11. Some of the Nordic countries like Finland, Sweden and Denmark are members of the ECN and can via the legal basis of the EU Council Regulation 1/2003 of 16 December 2002 conduct investigative measures on behalf of other member states. Since the regulation came in to force 1 May 2004 especially the Swedish and Danish authorities have assisted each other in numerous inspections and written requests for information. As regards Sweden such assistance to the Danish Authority stands for a majority of the investigative measures taken for other EU Competition Authorities under Regulation 1/2003.

12. Many of the contact persons have worked together for many years as members of the NCN. During their cooperation within the network the members have built up a mutual trust between the authorities. This has proven invaluable in the exchanging of important, confidential and sensitive information which has been beneficial to each of the authorities. On these grounds alone it is likely that the cooperation within the NCN will continue for the foreseeable future.