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Annual Report on Competition Policy Developments in Norway

-- 2023 --

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Norway

Executive summary

1. The Norwegian Competition Authority (NCA) works to promote competition to the benefit of consumers and businesses. This work is based on effective enforcement of the prohibition regulations in the competition act, an active merger control, and by being a centre of competence in competition-related matters.
2. In its work to control and assess concentrations, the NCA carefully considers mergers and acquisitions that might impede effective competition. In 2023, the authority received and assessed 113 notifications regarding mergers and acquisitions. Of these, 96 per cent were completed within 25 working days. Four mergers were approved after thorough investigations. One merger, between two enterprises in the market for concrete and concrete products, was prohibited due to the geographical proximity of the competing companies and concerns that the merger would lead to increased prices.
3. Relating to the prohibition regulations, the NCA concluded an investigation in the market for contractor services that had been initiated in 2022 for suspicion of illegal cooperation. However, due to insufficient evidence of anti-competitive collaboration among competitors, the case was concluded with no finding of a violation in November 2023.
4. With respect to court proceedings and the outcome of appeals, the NCA's 2022 decision of illegal cooperation among four book publishers and Bokbasen, a company that is owned by the four largest players on the book market and creates infrastructure for new digital solutions in publishers, physical and online bookshops, streaming services, libraries, and schools etc., was annulled by the Competition Appeals Tribunal in 2023. The Tribunal found that the information, which was shared through a publisher, Mentor Forlag, included current or guiding prices, not future prices, and was disseminated not exclusively among the publishers, but also with customers, contrary to the NCA's conclusion. The Tribunal subsequently overturned the NCA's decision, annulling the fines of NOK 545 million (USD 50.7 mill.¹). As the NCA could not at the time appeal the Tribunal's decisions, the conclusion is final. However, due to new legislation that was enacted in July 2023, the NCA now have the possibility to appeal the decisions of the Tribunal in future infringement cases.
5. In addition, the NCA's 2020 prohibition of Schibsted's acquisition of Nettbil, which is an online marketplace for used cars sold from private individuals to car dealers, was annulled by the Gulating Court of Appeal in 2022. The background for the case was that Schibsted, an international media group operating online marketplaces, wanted to buy Nettbil, both offering a marketplace for used cars. The NCA appealed the Court of Appeal's judgement to the Supreme Court, which, in February 2023, decided against the NCA's prohibition of the acquisition. The Supreme Court concluded that the two firms were not competitors in the market for online sale of used cars.
6. The prioritized enforcement areas for the NCA for the period from 2022 to 2025 are digital markets, grocery market, and sustainability.
7. Regarding enforcement in digital markets, the Authority has worked actively to develop competencies for handling digital market cases, participated in relevant ECN

¹ The exchange rate in this document is per 22. March 2024.

subgroups, and collaborated internationally on digital economy enforcement. Additionally, the NCA has worked towards establishing a new unit for data and analysis aimed at enhancing internal capabilities in data handling and analysis, preparing for the use of AI in enforcement, and supporting the rest of Authority with specialized digital expertise.

8. The grocery market in Norway is highly concentrated in all parts of the value chain. The NCA's activities in the grocery sector include enforcement, market analyses, and various forms of advocacy. The Authority continued its investigation of collusion between the three largest grocery chains, which started in 2020. Notably, in 2023, high inflation and high prices intensified the political attention directed towards this sector, resulting in some specific instructions from the Ministry of Trade, Industry and Fisheries. The NCA was *inter alia* instructed to investigate and analyse the development of both product margins and profitability at the enterprise level among grocery chains and a selection of suppliers, collecting a large amount of data from suppliers and analysing recent years' trends. The aim of the study was to understand the dynamics affecting pricing and competition within the grocery sector.

9. In addition, the NCA published its annual grocery market report, describing obstacles to competition in the market and the scope of the NCA's work in the sector. The NCA also addressed the issue of anticipated price increases in the grocery market, particularly related to the established practice of biannual price negotiations and price adjustments in February and July each year. During the autumn of 2022 and the winter of 2023, there was a notable rise in media reports forecasting price hikes, potentially undermining competition and leading to higher consumer prices. Following the Authority's consultations with major market players, a shift in communication strategy was noted, of which the market players adopted a more cautious approach to sharing future pricing information in the public domain.

10. The NCA has advocated the role of competition policy in the green restructuring of the Norwegian economy. By placing sustainable development as a target area in the strategy plan, the Authority gives priority to enforcement of cases that play out in a sustainability context or may have an impact on sustainability measures. In 2023, the NCA has worked to emphasize the importance of competition to achieve sustainability goals in areas like emission-free transportation and waste management through eg. the involvement in various media outlets like articles and podcasts. Moreover, the NCA has updated its thematic web pages relating to sustainability and competition to guide businesses on what kind of collaboration is in accordance with the law, and to explain how standards for sustainability can support both competition and sustainability.

11. To address new challenges in the enforcement of competition law, including circumstances when markets are highly concentrated without a clear breach of competition law, the Ministry of Trade, Industry and Fisheries sent a proposal to amend the Norwegian Competition Act by incorporating a market investigation tool on a public consultation. Moreover, in parallel, the Ministry presented a commissioned report proposing the introduction of non-criminal administrative penalties for individuals for their role in an infringement of the competition rules as well as the possibility of imposing a time-limited ban on holding certain leading positions in companies for individuals participating in serious breaches of competition legislation. The Ministry's process of assessing responses from the public consultations is still ongoing.

12. For the NCA, visibility is one of three core values, and a large share of the Authority's staff participates actively in public debates. In 2023, its media coverage consisted of 5692 news items in Norwegian media, and 15 op-eds in major news outlets were written by NCA staff. The Authority used social media to reach primary target groups

and produced 7 podcasts on topical issues. One key ambition is to increase awareness of the competition law among small and medium-sized enterprises. To achieve this, the NCA has worked to strengthen the collaboration with the business sector's trade organisations and local business associations.

13. The NCA considers it important to spread information about the NCA's work to pupils and students. Thus, during 2023, eight school classes visited the NCA to learn more about competition policy. Additionally, with the aim of providing legal guidance for a broader audience, the Authority presents frequent updates on its own website, including on sector-specific sub-pages.

14. The NCA is also a frequent participant in public consultations. In its advocacy work, the NCA aims to ensure that competition perspectives are taken into account when new policies are adopted. In 2023, the NCA submitted comments in 15 public consultations to various Ministries and other public authorities, regarding proposed changes in laws and regulations on a wide range of topics. Parts of the advocacy work is directed at local authorities.

15. By the end of 2023, the NCA had a total of 100 employees.

1. Changes to competition laws and policies, proposed or adopted

16. The current Competition Act entered into force on May 1, 2004. The purpose of the Act is to further competition and thereby contribute to the efficient use of society's resources. When applying this Act, special consideration shall be given to the interests of consumers. The Act is largely harmonized with the EEA/EU competition rules and includes prohibitions against agreements between undertakings that restrict competition and abuse of dominant position, as well as leniency provisions. Mergers and acquisitions above certain turnover thresholds are prohibited from being implemented before they have been notified and reviewed by the Authority.

17. According to the Act, the NCA's main task is ensuring adherence to the prohibitions and orders of this Act, intervening where necessary against concentrations, implementing measures to promote market transparency, enforcing Articles 53 and 54 of the EEA Agreement and calling attention to any restrictive effects on competition of public measures and, where appropriate, submitting proposals aimed at furthering competition and facilitating market access by new competitors.

1.1. Summary of new legal provisions of competition law and related legislation

18. **A regulatory ban on restrictive covenants/easements.** In response to concerns about limited competition in the grocery market, mainly due to the dominance of few key players and restricted access to attractive retail locations, the NCA investigated the use of restrictive covenants and exclusive lease agreements. These practices were found to significantly hinder market entry and competition, leading the Government to propose a ban in July 2022. This move aimed at prohibiting both existing and future restrictive agreements that limit new entrants in the grocery market.

19. As a mean to lower barriers to entry in the grocery sector, in December 2023 the Government finalised and enacted regulations banning covenants that restrict the establishment of grocery businesses. The legislation entered into force in January 2024. This regulation targets future establishment of restrictive rights and represents a critical

step towards dismantling barriers to entry in the grocery market, thus promoting effective competition.

20. **Interest rates on administrative fees.** Effective from January 2023, the Competition Act was amended to include a provision that enables the imposition of interest on infringement fees during the period an appeal is under consideration. This will contribute to discouraging unnecessary delays in the appeal process and ensure that the financial implications of infringements will be more tangible for the offending parties.

21. **Legal actions within the appeals process.** In April 2023, the Government proposed an amendment to the Competition Act, aiming to give the NCA the right to appeal decisions by the Competition Appeals Tribunal. The proposal intended to rectify the equality of arms between the NCA and the undertakings, where only the latter could appeal decisions made by the Tribunal. The essence of the amendment was to allow the NCA to appeal decisions in infringement cases² directly to the courts. This amendment entered into force July 1, 2023, granting the NCA the ability to directly seek judicial review, excluding merger control cases.

1.2. Government proposals for new legislation

22. **A ban on anti-competitive price discrimination lacking objective justification.** Following the Parliament's request of May 2022 for the government to implement various measures to enhance competition within the grocery market, the Ministry proposed new regulations in December 2023 aimed at prohibiting price discrimination practices among suppliers and wholesalers with significant market power. This proposal, developed in response to the Parliament's concerns and informed by previous consultations with the interested parties, aims to prevent suppliers and wholesalers from imposing unreasonable differential purchasing conditions that could potentially limit market competition. Unlike the earlier proposals from October 2022, which delineated between types of unreasonable price discrimination that could restrict competition, the 2023 proposal targets all forms of price discrimination that might impede competitive dynamics within the grocery market. The measure is intended to alleviate barriers to entry for smaller market players and encourage a fairer, more competitive environment.

23. In its hearing statement to the consultation, the NCA acknowledged the necessity of addressing price discrimination that might harm competition but argued that existing prohibition provisions address potential anti-competitive effects of such practices. Furthermore, the NCA emphasized that a market investigation tool could more accurately address the outlined market challenges targeted by the proposed regulation. The NCA highlighted that disparities in purchasing prices have been reduced since their last analysis of the market, suggesting an improvement in market conditions. However, the Authority also pointed out the significant role that a reduction in import protection and access to suitable retail locations can have in enhancing competition. Such adjustments are deemed crucial for reducing market entry barriers further facilitating entry for new competitors.

24. **Introduction of administrative fines for natural persons.** In March 2023, the Ministry presented a commissioned report for a public consultation, proposing that the NCA should be empowered to impose infringement fees and time-limited bans on holding certain leading positions in companies for individuals participating in serious breaches of competition legislation. This initiative aims to bridge a gap in the current regulatory framework, which only allows for imposing infringement fees on companies. At present,

² Including decisions according to regulations based on Section 14 in the Competition Act.

if the Authority considers that individuals should be penalized for violating the Competition Act, the matter must be referred for public prosecution.³ This far, no individual has been held accountable for breaching the Competition Act since the Act came into force in 2004. This amendment could therefore strengthen the preventive effect of the prohibition provisions.

25. In the public consultation, it is proposed that individuals should be sanctioned only for the most serious violations of the Act. It further suggested introducing management suspensions or leadership quarantines for up to five years for individuals in leadership roles within companies found to have violated the Competition Act. According to the consultation note, the direct enforcement of regulations by the NCA might enhance sanction effectiveness and increase the likelihood of holding individuals who have had a key role in the infringement accountable.

26. In its hearing statement to the consultation, the NCA supported the proposal, recognising it as an important step towards reinforcing the enforcement mechanisms of the Competition Act. By extending legal competencies to include individual sanctions, the NCA anticipates a stronger deterrent effect. The NCA underlines the importance of a multifaceted approach to sanctions, affirming that mere corporate penalties are insufficient for optimal compliance with the Competition Act. Preserving the option of criminal penalties for the most serious violations while introducing administrative fines for individuals would foster a culture of personal responsibility and compliance. Furthermore, the inclusion of leadership quarantines introduces a distinct consequence, affecting leaders' incentives beyond financial penalties.

27. **Market investigation tool.** At the same time, in March 2023, the Ministry published a consultation paper with proposed amendments to the Competition Act, enabling the NCA to conduct market investigations across all sectors. The proposal was inspired by similar frameworks in the UK and Iceland and aims to provide a tool that can address wider market dysfunctions, not just anti-competitive behaviour by individual companies. According to the Ministry's proposal, the NCA may initiate a market investigation if conditions suggest that competition within a market or parts of it is limited or at risk of being limited. If adopted by the Parliament, the NCA would be able to analyse competitive conditions and then implement behavioural and structural measures to address significant limitations or potential threats to competition, in line with the aims of the Competition act. The tool, applicable across all markets, would allow the NCA to address more general competition concerns in a market, rather than focusing only on individual companies' behaviour.

28. Notably, if the proposal is accepted, a decision by the NCA following a market investigation can be challenged by the parties before the Norwegian Competition Tribunal

29. The NCA considers the proposal as providing a new avenue to further competition and thereby contribute to the efficient utilization of society's resources, by effectively targeting competition concerns that cannot be addressed by the current legal tools.

1.3. Other relevant measures, including new guidelines

30. According to the extended disclosure requirement, firms are required to inform the NCA when they acquire control of, or merge with, another undertaking operating in

³ E.g. Økokrim, the National Authority for Investigation and Prosecution of Economic and Environmental Crime.

specified markets or industries, even if the notification thresholds are not met. Disclosure requirements may also cover acquisition of minority shareholdings.

31. The aim of the disclosure requirements is to prevent that acquisitions by large companies of smaller market players cause harm to competition. The possibility to impose an extended disclosure requirement supplements the other tools in merger control the NCA has available, i.e. the general notification regulations and the call-in option.

32. In 2023, the NCA imposed extended disclosure requirements for some new markets and companies. Currently, the extended disclosure requirements apply for the following markets and companies:

- Motor fuel retailing: Uno-X Mobility AS, St1 Norge AS, Certas Energy Norway AS and Circle K Norge AS
- Electricity generation: Statkraft AS, Eviny AS, Skagerak Energi AS and Agder Energi AS/Å Energy and Hafslund Eco Vannkraft AS
- Waste management and recycling: Norsk Gjenvinning Norge AS
- Grocery store chains: Norgesgruppen ASA, Coop Norge SA, Rema 1000 and Bunnpris IK Lykke AS
- Newspapers: Amedia AS, Polaris Media ASA and Schibsted ASA
- Home security systems: Verisure AS and Sector Alarm Group AS
- Laundry services: Nor Tekstil AS
- Garden centres: Plantasjen Norge ASA
- Suppliers of concrete: Nordic Concrete Group AS, Heidelberg Cement Norway AS and Unicon AS
- Accounting systems: Visma AS
- Online marketplaces: Schibsted ASA
- Charging services for electric cars: Mer Norway AS, Circle K Norge AS, Eviny Elektrifisering AS, Recharge AS and Tesla Norway AS
- Sport equipment: Sport Holding AS

33. The NCA regularly considers whether it is necessary to impose disclosure requirements on other market players.

2. Enforcement of competition legislation/rules and policies

34. According to the Competition Act, the primary responsibilities of the NCA are as follows:

- Monitor adherence by businesses and industry to the Competition Act's prohibitions against cooperation that restricts competition, and abuse of a dominant market position.
- Ensure that mergers, acquisitions, and other forms of concentrations do not significantly restrict competition.
- Implement measures to increase the transparency of markets.

- Enforce Articles 53 and 54 of the EEA Agreement.
- Call attention to any restrictive effects on competition of public measures and, where appropriate, submit proposals aimed at furthering competition and facilitating market access by new competitors.

35. The NCA can impose civil sanctions for violations (e.g. an administrative fine for the company or companies involved). In addition, the Competition Act contains a penal section. Normally, cases referred by the NCA for public prosecution will be of a very severe nature.

2.1. Action against anticompetitive practices, including agreements and abuses of dominant position

2.1.1. Summary of activities

36. The Authority endeavours to work with various types of cases in a diverse range of markets of importance to the Norwegian consumers.

37. Tip-offs, complaints, and leniency applications are important to ensure the greatest possible direct and indirect effects of enforcement. Through targeted informational measures, the NCA has experienced an increase in tip-offs related to possible competition infringements.

38. Moreover, the NCA has adopted a more proactive approach to uncovering cartels. Several projects on uncovering cartels ex officio have been initiated since 2017. In addition, the NCA aims at utilizing the possibilities that digital tools provide, using new sources and methods for data analysis for the detection of cartels. This approach provides the basis for prioritizing cases and activities in accordance with our strategic plan.

A summary of activities is presented below.

Table 2.1. Investigative Work Activities 2014-2023

Cases / locations	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
Securing evidence section 25	6/17	1/2	1/3	3/3	2/10	2/6	1/2	2/8	4/11	0
Depositions (formal statements) section 24	4/34	5/45	4/17	4/20	4/34	6/39	3/6	0	1/5	4/14

39. Leniency has been part of the Norwegian competition law since 2004. The threshold for seeking leniency appears to be relatively low, and some of the NCA's larger cases have started as leniency applications. However, surveys in previous years have indicated a lack of knowledge about the leniency programme among business leaders in Norway. To address this, the NCA has intensified its communication efforts through media channels regarding the leniency program and the possibility for anonymous tip-offs.

40. In 2023, the NCA received 72 tips which were evaluated for follow-up. These tips contributed to the NCA's ability to carry out the tasks under Section 9 e of the Competition Act. To further evaluate the follow-up of received tips, an internal tip group has been established with participants from three market departments.

2.1.2. Description of significant cases, including those with international implications

41. The NCA continued investigations in several markets based on concerns that companies exchanged sensitive information/know how/trade secrets/ information that it is of competitive importance to keep secret.

42. **Market for relocation services.** In September 2021, the NCA started an investigation among parties in the market for relocation services. The inspection was based on a suspicion that the parties had exchanged competitively sensitive information, and relevant materials were seized to confirm or refute the suspicion of illegal collaboration. The investigation is ongoing.

43. **Market for financial services.** In February 2022, the NCA carried out unannounced inspections at KLP due to suspicion of violation of Section 11 of the Competition Act, which pertains to abuse of dominant position in the market. KLP provides pensions to over 710,000 Norwegians and manages around NOK 948 bill. (88,2 bill. USD) of pension capital. The suspicion relates to KLP's activities in the market for occupational pensions and that the company acted in a way that restricts competition. Relevant materials were seized to confirm or refute the suspicion of a breach of competition law. The investigation is ongoing.

44. **Health-related market.** In May 2021, an investigation was initiated, and a forensic search was carried out at the involved parties' facilities. The investigation was based on a suspicion relating to illegal exchange of competitively sensitive information between the parties, this a potential violation of Section 10 of the Competition Act. The investigation is ongoing.

45. **"Price hunters" in the grocery market.** The NCA has prioritised the grocery market for many years as the competitive conditions in this market has a major impact on Norwegian consumers. The market is highly concentrated both at the wholesale and retail level. Effective competition is crucial to avoid unnecessary price increases. In 2023, the NCA continued its investigations in the grocery market, assessing the substantial materials seized in a dawn raid conducted in 2018. The case centres around an agreement between the grocery chains, which allowed the grocery chains to access each other's stores to collect information about shelf prices for use in comparative advertising. The NCA learned that each chain had developed an organisation of "price hunters" to collect prices from competing grocery stores.

46. Following a period of increased activity of this kind, the NCA examined the grocery chains' pricing and information flows in 2016, including the practice of collecting price information from competing grocery stores. That examination led the Authority to conduct unannounced inspections at NorgesGruppen, Coop, Rema 1000 and Bunnpris in 2018 on the suspicion of exchange of strategic information between the grocery chains. After investigating the case, the NCA decided not to proceed with the case against Bunnpris.

47. However, in December 2020, the NCA issued a statement of objections with a warning to impose fines totalling NOK 21 billion (USD 1.9 billion) on NorgesGruppen, Coop and Rema 1000. This level of fines is unparalleled in Norway. The preliminary assessments indicated that the grocery store chains have cooperated in a manner that may have led to higher grocery prices for Norwegian consumers. The NCA suspects that the grocery chains have acted in violation of the prohibition against anti-competitive cooperation by granting each other access to strategic market information related to price tracking activities. The parties submitted their responses in late February 2022.

48. In February 2024, the NCA dropped the allegation that the price-hunter activities among the grocery chains could constitute a restriction of competition by object. The investigation continues, focusing now on whether the collaboration had a competition-restricting effect, which is considered a less serious offence. The case is expected to be concluded in 2024.

49. **Market for contractor services.** In February 2022, the NCA started an investigation into the market for contractor services, due to a suspicion of illegal cooperation in violation of Section 10 of the Competition Act. This suspicion was based on information suggesting possible anti-competitive collaboration among competitors. Dawn raids were conducted at various actors in the market both in February and November 2022, seizing relevant materials for review. However, in November 2023, it was concluded that the basis to proceed with the case was insufficient.

2.1.3. Summary of development in cases that were appealed

50. The NCA's decisions to issue administrative fines in cartel and abuse of dominance cases can be appealed to the Competition Appeal Tribunal. The Tribunal shall consider appeals against all decisions and rulings in merger cases, decisions issuing fines for abuse of dominance and collusive behaviour, as well as decisions relating to access to file and duty to provide information etc. Decisions by the Competition Tribunal may be appealed to the Appeals Court and ultimately to the Supreme Court. The Gulating Appeals Court is the designated court for competition cases. Since 2024, the NCA have had the right to appeal decisions by the Tribunal.

51. **Book market.** In January 2018, the NCA carried out investigations into possible anti-competitive cooperation within the Norwegian book market, specifically targeting the activities of four major publishers – Gyldendal, Cappelen Damm, Vigmostad & Bjørke, Aschehoug, and Bokbasen, a book database service. These publishers have accounted for around 90 per cent of market revenue for many years. The purpose of the inspections was to investigate a possible infringement of Section 10 of the Competition Act against anticompetitive agreements and concerted practices.

52. The NCA found that the publishers shared and received competitively sensitive information via book database company Bokbasen and its subscription service Mentor Forlag, giving them an overview of each other's activities in the market. The exchange of information facilitated coordination of future book prices, book selection among the publishers and the timing of book releases, which may have potentially led to reduced variety and higher prices for consumers. The collaboration provided the publishers with easy, fast, and reliable access to competitively sensitive information.

53. As a result of this collaboration, the four publishers and Bokbasen were fined a total of NOK 545 mill (USD 50.7 mill.) in November 2022 for colluding in violation of competition law.

54. However, the decision was appealed to the Competition Appeals Tribunal. The Tribunal concluded that the information shared through Mentor Forlag included current or guiding prices, not future prices. Moreover, the information was disseminated not exclusively among the publishers, but also with customers. Thus, the Tribunal overturned the NCA's decision, concluding that the publishers and Bokbasen had not engaged in anti-competitive cooperation in violation of Section 10 of the Competition Act and Article 53 of the EEA Agreement. The fines were annulled, effectively resolving the case with the Tribunal's final decision.

2.2. Mergers and acquisitions

55. An important task for the NCA is to assess and prohibit concentrations that will significantly impede effective competition. To fulfil this task, the NCA has been equipped with the following tools: i) the general notification rules, ii) the extended duty to notify and iii) the power to order notifications (call-in). The first tool is the most important in merger control, according to which companies and other business enterprises have a duty to notify the NCA about any mergers, acquisitions, and agreements by which they acquire control of other companies, if the turnover of the undertakings concerned exceeds the turnover thresholds. A concentration must be notified to the Authority if the combined annual turnover of the undertakings concerned exceeds NOK 1 billion (USD 91.3 million) in Norway. However, there is no duty to notify a concentration if only one of the undertakings concerned has an annual turnover exceeding NOK 100 million in Norway (USD 9.1 million).

56. For sectors and industries that already have a structure and degree of concentration that justify an enhanced focus, the NCA has the power to impose an extended duty to notify on specific firms. This implies that the firm must notify the NCA of all aspects of its concentration-related activities.

57. Moreover, the NCA can impose a duty to notify a specific concentration, even if the related turnover is below the notification threshold levels. The NCA may exercise this power if it has reason to suspect that the transaction will impact competition or if other factors indicate that the Authority should scrutinize the case more closely. This tool is particularly relevant when analysing established firms that acquire start-ups and in preventing killer acquisitions.

58. In addition to assessing notified mergers, the NCA monitors mergers that previously have been approved with remedies. In most of these cases, a monitoring trustee, appointed by the NCA, ensures that the conditions are met.

2.2.1. Statistics on number, size and type of mergers notified and/or controlled under competition law

59. In 2023, the NCA received 113 notifications compared to 160 in 2022. Notably, 69 per cent of the notifications (78) are so-called simplified notifications, relating to mergers not likely to affect competition negatively.

60. In 2021 and 2022 we received a record number of merger notifications. A plausible explanation for this increase is the difficulties imposed on many firms by the pandemic. In 2023, the number of notifications was back to normal.

Figure 2.1. Notifications of mergers and acquisitions – January 2018 – December 2023 (3 months running average)



61. The NCA aims at managing merger cases efficiently and provide businesses with a speedy resolution. By focusing on front-loading resources in each case, the NCA has been able to handle cases more efficiently, freeing up internal resources for other prioritized cases.

62. Of the 113 notifications of mergers and acquisitions received by the NCA in 2023, 108 were closed within 25 working days, i.e., 96 per cent. For the NCA, thorough control of concentrations is an important part of its work. Notwithstanding, efficient clearance has proved to be beneficial for the involved parties, as well as contributing to increased predictability and swiftness in the merger control.⁴

63. The NCA has the power to require businesses in highly concentrated markets, such as power production and the grocery market, to notify the authority of all acquisitions. By monitoring these markets closely, the NCA can stay informed of new developments and potential competition issues. The NCA periodically evaluates whether additional market participants should also be obligated to provide these notifications. For more information on this subject, see subsection 1.2 and the introduction of subsection 2.2.

64. In March 2023, the NCA prohibited the **acquisition of Betongvarer by ØB Group**, the latter being a part of a consortium with interests in several concrete production plants across Norway. The prohibition was based on concerns over reduced local competition in the ready-mixed concrete market. The NCA concluded that the acquisition would lead to higher concrete prices due to the high costs of transporting ready-mixed concrete and the geographical proximity of the companies to their customers compared to other competitors.

65. In January 2023, the NCA concluded its investigation of **Axess Logistics' purchase of the bankruptcy estate of Auto Transport Service**. After a thorough investigation, the NCA could not prove that the acquisition would significantly weaken competition in the finished-vehicle-logistics market, which involves the preparation and transportation of vehicles from the manufacturing site to dealers or end customers.

⁴ As the NCA receive notifications throughout the year, sometimes there is an overlap over the years when the cases are registered in our systems.

66. In April 2023, the NCA concluded the investigation of **Skion Water International's acquisition of Enwa**. The NCA found insufficient evidence that the merger would significantly weaken effective competition in the market for water treatment equipment and services for swimming facilities. The NCA concluded that there were lower barriers for new entrants in the market than initially assumed and highlighted that customers could solicit bids from alternative suppliers, potentially leading to more competitive suppliers regardless of their market shares.

67. In June 2023, Danske Bank announced its withdrawal from the Norwegian retail market to focus on its commercial banking operations. The following month, **Nordea announced its acquisition of Danske Bank's private customer business**. In December, the NCA concluded its investigation without intervention, allowing Nordea to acquire 285,000 Norwegian customers and increase its market share by five percent. The NCA concluded that the merger would not significantly weaken the competition in markets for loans, private banking, or collective agreements, with potential efficiency gains benefiting customers.

68. In August 2023, **Norwegian airline company Norwegian announced its merger with Widerøe**, aiming to strengthen their service supply by closely integrating Widerøe's regional routes with Norwegian's national and international flights. After a comprehensive assessment, the NCA decided to close the case without intervention, as it was not sufficiently clear that the merger would significantly impede effective competition in the commercial air transport market. After the merger, the companies plan to operate a total of 107 different routes in Norway, with only five overlapping routes. Widerøe will continue to operate as a separate airline, maintaining its brand, organisation, and headquarters in Bodø. The acquisition was approved in December.

3. The role of competition authorities in the formulation and implementation of other policies, e.g. regulatory reform, trade, and industrial policies

3.1. Cooperating bodies

69. The NCA holds regular meetings for information and contact purposes with sector regulators, such as the Financial Supervisory Authority of Norway, the Norwegian Communications Authority, the Norwegian Water Resources and Energy Directorate, the Norwegian Consumer Authority, and the Norwegian Consumer Council. The contact with some of these bodies is formalised by cooperation agreements which provide a better framework to exchange information. Meetings are both on regular and ad hoc basis, depending on whether there are cases where both competition policy and sector-based regulations are essential. Moreover, the NCA has continued to maintain good relations with other public institutions throughout 2023.

3.2. International cooperation

70. For the NCA, international cooperation has a high priority, with the European Competition Network (ECN), Nordic network, ICN and the OECD as the most important networks. The NCA aims to be an active contributor to these networks and submits written contributions for the OECD Competition Committee as well as presenting cases in ECN Working Groups.

71. The European Economic Area (EEA) agreement makes Norway part of the European single market. The EEA links the EU member states and three European Free

Trade Association (Efta) states (Iceland, Liechtenstein and Norway excluding Switzerland which is not party to the EEA Agreement) into an internal market governed by the same basic rules. Thus, the agreement entails the free movement of goods, services, capital, and persons. The agreement also entails common competition rules, public procurement rules and state aid rules, in order to ensure equal and fair conditions of competition between companies throughout the EEA. However, the internal market also means that many cases of competition infringements include companies that operate across borders and that the adverse effects affect consumers in many countries. This makes the active participation in the European Competition Network even more important for the NCA. In this regard, the NCA advocates mechanisms for effective enforcement cooperation between enforcement agencies in both the EU pillar and the Efta pillar.

72. In its enforcement of the EEA competition rules, the NCA has regular contact with the EFTA Surveillance Authority relating to ongoing cases with a cross-border dimension, to ensure consistent application and enforcement of the EEA competition regulations, i.e. Articles 53 and 54 corresponding to 101 and 102 TFEU. In 2021, ESA launched the Efta Competition Network, consisting of i) lunchtime webinars on topical issues, ii) regular meetings on more technical and enforcement related issues, as well as iii) more policy-oriented meetings at the management level. The network has been active with webinars and meetings on all dimensions in 2023.

73. Another important cooperation arena is the Nordic cooperation. The cooperation with the Nordic competition authorities is institutionalised in an agreement providing for effective cooperation on cross-border enforcement. The Nordic cooperation also comprises informal contact through various networks, the biannual meeting between the DGs and the annual meeting focusing on topical enforcement related issues. In 2023, the annual Nordic meeting between the competition authorities took place in Sweden.

74. The NCA is also an active participant in the International Competition Network (ICN). From 2021, the NCA is a co-chair of the ICN Merger Working Group, after having served as a co-chair for the Advocacy Working Group.

75. The NCA also has informal cooperation with other authorities on a bilateral basis.

3.3. Expressing competition concerns related to existing or proposed regulations

76. According to section 9 of the Competition Act, the NCA shall supervise competition in the various markets, by implementing measures to promote market transparency, and by calling attention to any restrictive effects on competition caused by public measures.

77. In this regard, the NCA advocates for changes in regulations that facilitate competition through lower entry barriers, new business models, and stronger incentives to compete.

78. Anti-competitive regulations exist in a number of different areas, and the NCA has taken steps to address them. On the NCA's website, a function has been made available to the general public to submit encrypted tip-offs regarding any perceived regulatory restrictions on competition. The tip-offs are considered by an internal task or further follow-up by the market departments.

79. Also, raising awareness of the importance of competition and to influence a competitive culture across markets is a key part of the NCA's advocacy efforts. The NCA's advocacy efforts are particularly directed towards small and medium sized enterprises,

where surveys have documented a clear need for increased awareness of and familiarity with competition law.

80. In 2023, the NCA has been active in its advocacy work and received significant media attention. The authority continues to be active in media, explaining the importance of solid enforcement of the competition law and its direct impact on consumers. In addition to TV appearances and interviews, the NCA's employees published 15 op-eds on topical issues. Additionally, the Authority also published 7 podcast episodes and produced 4 webcasts presenting basic knowledge on competition law. These webcasts are particularly relevant for small and medium-sized enterprises.

81. Notably, media analytics and a survey indicate that the NCA has been highly visible in 2023 with 5692 media news items referencing the NCA.

82. As a consultative body, the NCA ensures that the value of competition is taken into account when new policies are adopted. The Authority prioritises consultations where its influence is most likely to result in a positive outcome for competition. This approach has proven to be an effective use of resources. In 2023, the NCA submitted 15 hearing statements to various ministries and authorities, regarding proposed legal amendments on a broad range of topics.

83. For some markets, the authority has continued to develop separate thematic webpages, either because the market is a priority or the authority has additional tasks in the market. Thematic webpages exist for the book market, the taxi market, the fuels market, the digital economy, sustainable development and competition, and the grocery market.

4. Resources of the competition authority

4.1. Resources overall (current numbers and change over previous years)

4.1.1. Annual budget (in NOK and USD)

84. The annual budget for the NCA for 2023 was NOK 136.9 million (USD 1.27 million).

4.1.2. Number of employees (person-years):

85. The NCA's personnel resources amounted in 2023 to 87.7 person-years, including administrative staff and PR-staff.

86. Number of employees (not person-years) as per 31 December 2023 amounted to 100 (including staff on temporary leave), including:

- 38 economists
- 33 lawyers
- 4 investigators
- 1 data scientist
- 24 other professionals and support staff (HR, IT and information management, PR/communications, finance, organisation development)

4.2. Human resources (person-years) applied to mergers, anti-cartels, dominance-related issues and advocacy

87. The NCA's case handling is primarily organised by sector. Thus, the case handlers are working in market departments responsible for specific markets. All case handlers work with different types of competition cases within the markets allocated to the market department.

88. Specialized legal and economic support and quality assurance is provided by the legal director's team and the chief economist's team, respectively.

89. The NCA also has an investigative staff with approximately six and a half person-years dedicated to investigations in cartel and abuse of dominance cases, as well as international network activities. The staff also includes specialist knowledge in forensic IT. The investigation staff supports the market sections in cartel cases and other investigative measures.

90. All case handlers may engage in advocacy work, and the Department of Communications and PR work closely with other departments to maximize media attention related to case outcomes and advocacy work.

91. Skill building is a priority for all employees, with the NCA successfully building a staff of highly qualified and experienced case handlers. In 2023 the NCA ran leadership development program at various levels of the organization.

4.3. Organizational development

92. Towards the end of 2023, NCA decided to establish a new unit for data and analysis. The main objective of the unit is multi-fold: It must function as a service unit for the entire organization relating to tasks that require specialized digital competence, it must be a driving force in the development of digital solutions, prepare for and utilize the artificial intelligence. In addition, and build up the ability to collect, handle, analyse and to visualize huge data volumes. The unit also will be responsible for larger projects that require special digital expertise.

93. To integrate this new unit into the existing organization, and to develop capacity and the necessary expertise, will be a key activity in 2024.

5. Summaries of or references to new reports and studies on competition policy issues

94. **The Grocery Report.** 2023 has been a year of high inflation and a nearly 10 per cent increase in food prices, significantly impacting consumers. For the NCA, a multifaceted approach has been undertaken to identify the causes of these price increases, including an investigation into the largest grocery chains for potential anti-competitive collaboration. The NCA also concentrated on structural control and local competition, examining the effects of fixed price adjustment windows, price signalling in the media, and differences in purchase prices.

95. Late 2023, the NCA published its second report on the grocery market in Norway. The report describes challenges in the sector, and the NCA's role in mitigating them. Despite identifying areas of concern, such as the use of negative easements restricting new entrants and the competitive advantages stemming from fixed price adjustment windows, the report acknowledges positive developments towards enhancing competition. The NCA proposed measures to improve the situation, including the elimination of the practice of

fixed price adjustment windows and prohibition of restrictive easements that restrict new entrants in the market.

96. Furthermore, the report delves into local competition, highlighting a disparity between areas densely populated with grocery stores and those scarcely served. This deviation influences consumer options and pricing, in addition to underscoring the strategies grocery chains employ to navigate these diverse competitive landscapes. The report underscores NCA's commitment to regular monitoring and intervention, when necessary, aimed at fostering a uniformly competitive environment. This ensures that all consumers regardless of location, benefit from fair prices, diverse choices, and quality services, with the ongoing efforts to enhance dynamics of the market.

97. Overall, the report provides important insights into the current state of competition in the grocery market and emphasizes the importance of maintaining effective competition. The report serves as a valuable resource for decision makers when designing future reforms to promote greater competition in the grocery sector.

98. **Report on price adjustment windows and price competition.** The study was initiated by the NCA and carried out by Oeconomica DA and focuses on pricing dynamics and competition impacts attributed to the implementation of fixed price adjustment "windows" in Norway's grocery market. The report investigates how these adjustment windows influence pricing strategies among retailers, which affect both prices to customers and market competition. The main areas of examination include leader-follower pricing strategy, the role of price adjustment windows in vertical negotiations, and their overall stability effect on downstream competition costs. Additionally, the report explores hub and spoke collaborations for vertical price coordination and the potential for correlated pricing to alter consumer search behaviour.

99. Furthermore, the report covers the potential for reduced competition among suppliers and the strategic use of price signalling, alongside considerations regarding the distribution of risk across the supply chain and the possible efficiency gains from the model. The study raises concerns over the model potentially facilitating non-competitive practices, which suggests a need for regulatory reassessment.

100. The report concludes the analysis of the price adjustment window in the grocery market, with a suggested balanced approach in future regulatory frameworks to ensure the promotion of effective competition and consumer welfare.

101. **Studies on competition policy issues.** Since 2014, the NCA has allocated annual research funding from the General Price Regulation Fund. In January 2022, the Ministry of Trade, Industry and Fisheries provided new funding according to guidelines for the allocation of grant funding for competition-oriented research. In March 2023, grants totalling up to NOK 2 million (USD 0,186 million) were awarded to projects focusing on several of the Authority's areas of focus, including one focusing on the media market and another on competition in digital markets. Ongoing projects included themes such as sustainability and competition regulations, cartel policy in the Nordics, competition in various markets, and ex-post analysis of a merger case in the telecom sector. As a result of several of the projects, research articles have been or are in the process of being published in reputable journals.

102. The grant is open for applications from researchers in any institutional category to. The NCA will continue to implement various measures to disseminate and share research results, including the publication on the Authority's websites, references in articles and posts, and presenting research at internal and external seminars. The objective of the grant program is to encourage and support research that contributes to the development of

effective competition policy and enforcement in Norway, and to enhance the competitiveness of Norwegian firms in the global market.

103. An overview of new, ongoing, and completed projects in 2023 is available on our [website](#).