• Norway: Analysis of the Power Relations in the Food Supply Chain in Norway – Hearing Statement of the Norwegian Competition Authority

On 1 December 2011, the Norwegian Competition Authority (the Competition Authority) sent a comprehensive hearing statement to the Ministry of Agriculture and Food relating to the “Report on the Power relations in the Food Supply Chain in Norway”. The report was presented by a commission (the inquiry commission) appointed in February 2010 by the Norwegian Government. In the hearing statement, the Competition Authority expressed that it is critical to many of the recommendations of the report.

The main proposals in the report are the adoption of an act relating to negotiations and fair trading practices in the grocery sector; the creation of an ombudsman for the grocery sector; the set up of a grocery web portal; the introduction of food labeling and amendments to the merger control provisions in the Competition Act; and the carrying out of a study on ownership restrictions in the grocery trade.

Norway has the highest prices for food in Europe, and poorer product diversity than its neighboring countries. The level of taxes and costs in Norway, in addition to import protection for agricultural products are, in the Competition Authority’s view, important reasons for the high price level and the limited product choice in the Norwegian grocery market. In addition, there is a high degree of concentration in many supplier markets, a feature the Competition Authority finds worrying. The Competition Authority considers that effective law enforcement and merger control are the most important measures to avoid further concentration.

Furthermore, it is the Competition Authority’s opinion that the method used by the inquiry commission to discuss power relations in the food supply chain in Norway fails to distinguish between the effects of buyer power and market power (on the seller’s side). The inquiry commission seems to base its assessments on the premise that the grocery chains’ buyer power has a negative effect on consumer welfare.

In the Competition Authority’s view, buyer power is often exercised by retailers as a countervailing power to achieve better prices and conditions from suppliers. If such savings are passed on to consumers downstream, buyer power has beneficial effects for consumers. The pass-on to consumers depends on the degree of competition in the downstream market. High margins in the retail sector may be one indication of poor competition. According to a survey conducted by the Competition Authority, the profit margins in the Norwegian retail and wholesale sector are lower than in both Sweden and the UK. The Competition Authority is therefore of the opinion that the high price levels in Norway cannot be explained by the grocery chains’ profit margins. The overall assessment by the Competition Authority is that competition between retailers works relatively efficiently. There is, however, room for further improvement, especially by reducing barriers of entry and thereby promoting competition with new actors in the market.

One of the inquiry commission’s proposals is to introduce a specific act relating to negotiations and fair trading practices in the sector. In the Competition Authority’s view, the concerns this is meant to address are already sufficiently covered by i.a. the Competition Act. The adoption of new rules could lead to double regulation. Moreover, the Competition Authority also fears that an act on fair trading practices can restrict the retailers’ buyer power, hence leading to higher prices and weakening supply for consumers.

In the Competition Authority’s view, the current legislative framework on imports shelters, to a high degree many of the Norwegian food suppliers from competition. Adjustments in the framework for import protection might also ease the possibilities of entry in Norway of foreign grocery chains. In the hearing statement, the Competition Authority therefore recommends a review of the legislative framework on import protection as well as the related practices.

The Competition Authority has conducted an analysis of retail competition in local markets. One conclusion from this analysis was that the high degree of concentration in local grocery markets is higher than what can be attributed to dispersed settlement patterns and a sparse population. In the Competition Authority’s opinion, access to suitable locations and stores constitute a barrier to entry to the Norwegian grocery market. This barrier to entry is particularly high for foreign retailers who wish to establish their business in Norway. The current regulations also impede establishment of large grocery stores over 3000 square meters. Thus, the Competition Authority recommends that it should be assessed whether amendments in the zoning laws could result in increased local competition.

The report was conducted on behalf of three different ministries. These ministries will decide on the follow-up of the report based on i.a. the hearing statements from the hearing process now finished.

See further: Report (in Norwegian) and chapters of the Report available in English. NCA’s hearing statement (only available in Norwegian)