

1997

COMPETITION IN DENMARK



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PREFACE

1997 was a year influenced by the preparations for the new Competition Act, which came into force on January 1st, 1998. The amended act involved a tightening shift from an administrative control regime to a prohibition regime. A prohibition regime means that anti-competitive practices are prohibited unless an individual exemption has been granted. The work of the Authority in the field of competition will therefore become different from the previous administration.

The implementation of a large number of Ministerial Orders also made its mark on 1997. The Ministerial Orders “complement” the Competition Act in a number of fields.

Intensive information efforts concerning the new act have been undertaken, also in relation to the preparation of information pamphlets and guidelines and meetings held with approx. 50 trade organisations. It is the hope of the Authority that by holding these meetings, a number of violation cases can be avoided. The objective is that the law is observed and not that the Authority should instigate as many cases as possible.

In 1998 the most essential task for the Authority will be to get the new competition act well off the ground. The Authority expects a large number of notifications concerning agreements that are to be assessed with a view to a negative clearance or an exemption. In order to solve this task without forcing the undertakings into unreasonable periods of waiting, it will be necessary to continue to increase productivity.

In 1997 a “first generation” of models was implemented for the purpose of measuring production, productivity and quality (the so-called PPQ-systems). 1996 to 1997 saw a considerable lift of productivity. This was partly due to the fact that employees were exposed to heavy work loads which included the simultaneous handling of the preparation of the new competition act and terminating a number of cases under the old competition act. The energy sector was influenced by the prepara-

tions for the Act on Liberalisation of the Electricity Sector, which came into force on January 1st, 1998. This involved a number of new tasks.

In the field of public procurement, the Authority in 1997 handled an increasing number of concrete complaints of failing observance of EU regulations. Moreover, at the end of 1997, the Authority took over the area of government subsidy.

In order for the Authority to be better prepared to meet the new tasks and the tightened requirements, the Authority reorganised in 1997. A higher degree of network cooperation concerning the tasks has been given high priority. The Authority is presently trying to improve the quality of both the financial work - primarily through better and more in-depth analyses and reports - and the legal work which will be strengthened through better internal coordination and contradiction processes.

The Authority will also attempt to make the organisation more focused on development through the establishment of a project organisation for which assignment approx. 15 employees were taken out. The objective is to exploit and develop the competence of the employees and to improve the opportunities for a cross-sectional priority of development assignments.

In the autumn of 1997 an updating of our mission statement and competitive political strategy was implemented. Moreover, principles of employee policies were formulated, and in that connection focus was also made on a salary reform, employee consultations and manager development.

In order to improve the administration of cases, 1997 saw replacements of the pc-workplaces of the Authority - both in terms of hardware and software. All decisions are published on the Internet and users may receive information through an e-mail service.

Copenhagen, May 18, 1998

Finn Lauritzen

CONTENTS

1. REPORT	5
1.1 INTRODUCTION	5
1.2 OBJECTIVES	5
1.3 ORGANISATION	7
2. RESULT ANALYSIS	8
2.1 INTRODUCTION	8
2.2 AREA OF COMPETITION	8
2.3 ENERGY	11
2.4 PUBLIC PROCUREMENT	12
2.5 GOVERNMENT SUBSIDY	12
2.6 INFORMATION	13
2.7 MINISTERIAL SERVICES	14
3. STAFF AND ORGANISATION	15

1. REPORT

1.1 INTRODUCTION

The overall strategic objective for the Competition Authority, as part of the business policies, is to contribute towards a strong national economy through efforts for the benefit of businesses and consumers within the scope of the Authority. Competition policy forms an essential part of the policies of trade and industry. It is a central part of business regulations and it is there to ensure that markets for goods and services as well as for capital will function satisfactorily everywhere. It is an essential part of the framework conditions for the interaction between public and private sectors and it is coordinated internationally with a view to securing strong international competition for all undertakings. Strong domestic competition has a positive influence on undertakings that are prepared to meet competition in the export markets.

On this background, the Danish parliament, Folketinget, has implemented a strengthening of the competition legislation so as to make the law founded on the same principle of prohibition as in most other countries and in the EU. The Competition Authority is endeavouring to administer the law so that competition in Danish trade and industry will be at least as fierce as in other minor European countries.

General concept

Competition prevents abuse of power.

At the end of 1997, 102 persons were employed (not including office trainees). With effect as of September 1, 1997, the

Authority was granted an additional payroll equal to seven full-time equivalents, primarily to ensure that the Authority may be able to administer the new competition act without unacceptable waiting times for trade and industry. Moreover, in September 1997 the Authority took over the government subsidy sector from the department of the Ministry of Business and Industry and new tasks concerning sector-specific competition inspection.

The Competition Authority budget amounts to approx. DKK 60 million per annum.

1997 Statement	
	Mill. DDK
Revenue	60.2
Expenditure	56.6
Operating profit	3.6
Brought fwd. from 1996	1.9
Carry fwd. to 1998	5.5

The profit of the year and the amount carried forward from 1996 indicate that an amount of DKK 5.5 mill will be carried forward to 1998. The background for this is mainly the delay in the application of non-recurrent grants, for instance, for the information campaign in connection with the new competition act and for refurbishment of premises. These amounts will be spent in 1998.

1.2 OBJECTIVES

It is not an easy task to assess whether the various objectives will be met. In order to assess the competition intensity in Danish economy in an international perspective, a

development project has been initiated. The first outcome of this project was published in the Competition Report (1997). One of the aims of the project is to facilitate an assessment of the development in the competition intensity over a period of time in various sectors of trade and industry.

For several years, the Swedish sister authority *Konkurrensverket* has - as a more direct method of measurement - engaged a market research institute to investigate the way in which undertakings, trade organisations, local and central authorities, and commercial lawyers and journalists evaluate the institution.

The Authority has decided to implement similar investigations so that knowledge may be obtained as to how the Authority meets the wishes and expectations of interested parties. In 1998, only the field of competition law will be investigated, but subsequently the area of energy and those of public procurement and government subsidies will follow.

The investigation will include questions on quality and service in the Authority's attendance to cases and on its information efforts.

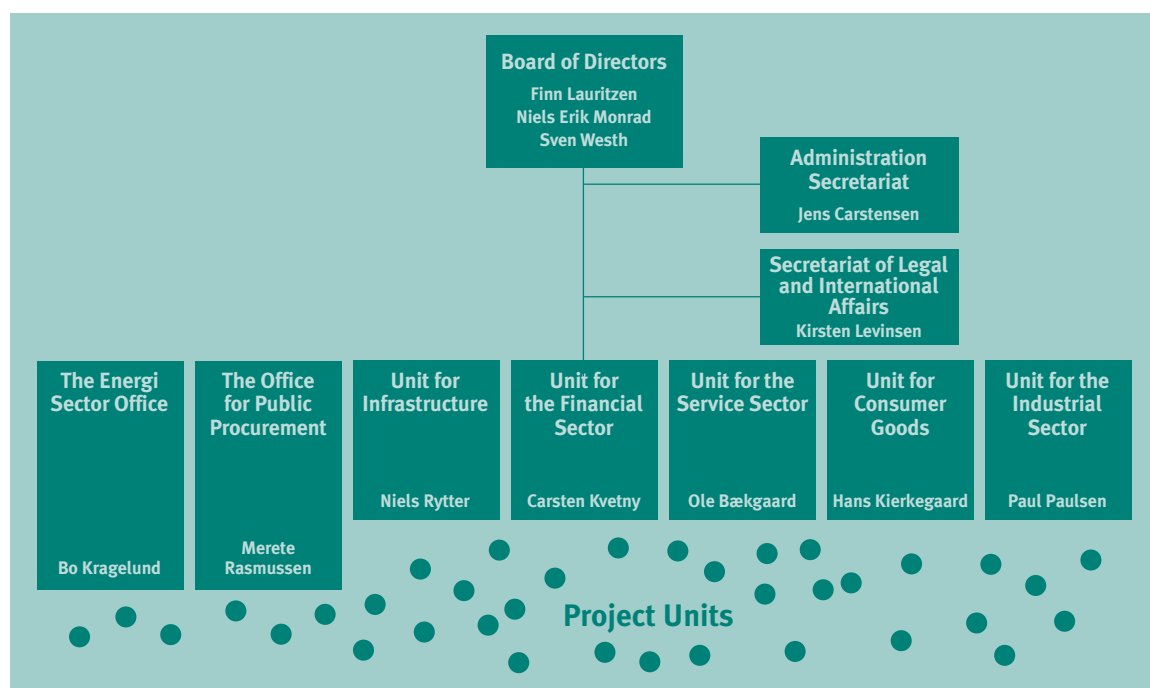
In 1997, the Authority developed a number of PPQ-objectives (production, productivity and quality) which are to form the basis for measuring production and productivity in the years ahead. The objectives

1. Acknowledgement of receipt of applications and complaints within a maximum of seven days of filing
2. Preparation of time schedules for cases to the Competition Council and observance of same
3. Parties to cases shall be reminded to reply not later than three days after expiry of a reply deadline
4. Observance of Competition Appeals Tribunal's reply deadlines
5. Observance of deadlines concerning parliamentary questions and other ministerial services

enable the Authority currently to follow the development in production in each individual unit, and thereby contribute towards improving the board's possibility of adjusting the allocation of resources. The measurements made so far have demonstrated a considerable lift of production from 1996 to 1997.

The measurement of production and productivity cannot stand alone, but must be complemented by objectives of quality. The tentative indicators set up concerning service and quality are focused on the observance of time limits.

In addition, the individual operational units are assessed on other five points of measurement, which record the observance of internal time limits. Quality objectives will be prepared during 1998, which are directly relevant or more covering, cf. also,



the description of user evaluations mentioned above.

Development projects are currently observed in accordance with the project descriptions so that target compliance is ensured. The issues include, i.a., application of resources, whether projects observe the time schedules and are finished on time, and whether the outcome is up to the formulated success criteria.

1.3 ORGANISATION

In 1997 the Authority implemented a restructuring of the organisation in order to make the business culture more oriented towards development. With the new organisation of the Competition Authority, it is endeavoured to increase productivity, development potential, expert competence level, and staff satisfaction. At the same time, efforts are made to break away from the previous traditional office structure. A project organisation has been set up and received 15 employees for its start in the autumn of 1997.

Interventions by the Authority have so far to a wide extent been based on complaints received and on an intuitive feeling of in which business sectors anti-competition practices would occur. The aims of the projects are i.a., to improve the Authority's basis for interventions and to lead to increased quality of Authority decisions. The projects are therefore an investment in the future, as the Authority may, in its day-to-day attendance to cases, use the results that have been obtained through the projects as a starting platform.

The project organisation is also a first step towards a proper network organisation.

By virtue of flexibility, it will enable the Authority to meet the requirements of the outside world and the expectations of its staff of challenging work.

The projects concerning competition in the energy sector and on cooperative societies will be published in the spring of 1998.

Selected projects at the end of 1997

Natural monopolies

- how to adjust in order to obtain highest possible economic efficiency

Measuring competition intensity

- find indicators for measuring competition and identify markets with competitive problems

Competition in the energy sector

- assessment of possibilities of a market opening

Pharmaceuticals

- status on competition and price relations in the area in view of the extensive regulation

Waste disposal

- status of the regulations in the environmental legislation that are of significance to competition

Cooperative societies

- problems of competition law in consideration of agreements concerning cooperative societies

Price discrimination

- illustration of the concept and specification of guidelines for assessment concerning competition law

2. RESULT ANALYSIS

2.1 INTRODUCTION

The legislative basis of the Authority includes:

- the Competition Act
- pricing rules in the Act on Electricity Supply and the Act on Heating Supply
- the EU public procurement directives and directives on government subsidy
- the Act on Competitive Tendering

In addition to this, the Authority is quoted in the Pharmaceuticals Act and the Act on Pharmacies, in the Act on Television and in the legislation in the areas of postal services, telecommunications and traffic. In these acts the Authority is assigned with controlling measures to ensure that competition may take place under the best possible conditions in the mentioned areas where special competitive circumstances prevail as a consequence of a high degree of public regulation. In connection with the liberalisation of markets that were previously characterised by public monopolies, transition rules have been introduced which are to ensure, i.a., that the previous monopolies do not retrieve their position from the period prior to the liberalisation. In all the mentioned fields, the work of the

Authority includes case attendance, development cases, information, and ministerial servicing.

In conjunction with the Danish Financial Supervisory Authority, the Authority is the secretariat for the council on the pension market, which analyses and assesses the compulsory labour market pension schemes.

2.2 AREA OF COMPETITION

The old act on competition

In 1997 a range of issues concerning the service sector were given high priority. Moreover, matters concerning public regulation were given a high weight. At the same time, the current dealing with ordinary cases continued, including cases of complaint, e.g. concerning refusal to supply and cases for the Competition Appeals Tribunal.

The Competition Council had 10 sessions in 1997. At these sessions, the Council made decisions in 45 cases. The executive committee of the Council made decisions in 27 cases, while the Authority made decisions in 597 cases.

Examples of essential cases relating to competition law

Horizontal agreement

The Competition Council decided in 1992 that for the time being there was no basis for interfering against a wide cooperation between the two dominating dairy companies in Denmark, MD Foods and Kløver Mælk. The dairy companies have a joint market share of 90 per cent on milk, 90 per cent on butter including mixed products, and 75 per cent on yellow cheese. The dairies formed a joint milk disposal company, a joint production company, and a joint marketing company.

It was an important condition for the Council's decision that the dairy companies did not join the profits from all activities and then made equal payments to the cooperative shareholders of both companies. If that was so, competition between the companies would be impossible, as farmers would have no reason to prefer one company to the other. Gains in terms of competition in the Danish market - for instance on a price reduction - would also be detrimental to the other party and consequently to the common result.

The acceptance by the Council of the agreements was also caused by the rationalisation gains that the dairy companies believed would be achieved through the cooperation. In the autumn of 1996 the Council established that the planned rationalisations had not been implemented. It also seemed as if the dairy companies exploited their market position for the purpose of increasing prices of goods that were protected against competition, whereas prices of goods that were exposed to competition were not increased.

Prices of consumer milk and butter were raised in the autumn of 1996 at a time where similar prices in the world market were falling.

The Competition Council therefore ordered the dairy companies to delete the stipulation in the articles of association of the company, which excluded a third party from having its milk produced in the Production Company by contract.

The issue of allowing a third party to have its products handled by the Production Company had to await a concrete complaint.

The Competition Appeals Tribunal has revoked the decision by the Council concerning intervention against a third party buying directly from the Production Company. The Appeals Tribunal found that the Council did have authority to make an intervention under Sections 11 and 12, but that there was no authority under Section 12 (1) for an order to make raw materials and production facilities available.

Discriminating conduct

The Competition Council dealt with a complaint from the Danish Football League Association, which found that DBU (Danish Football Associa-

tion) abused its dominant position in by restricting the commercial freedom of the clubs in eleven concrete issues.

In terms of competition the matter was about:

- The sale of radio and television rights of Danish games
- The right of administration of Danish tournaments of league football
- Sponsor agreements of the league clubs, and
- Increase of referee fees

Following negotiations with the Competition Council, the football association has amended its rules so that now they do not generally prevent the sale of rights of i.a. games outside the tournaments of the association - always provided the obligations towards UEFA and FIFA. The amendment prevents the board of the association from interfering in matters that exclusively concern the commercial opportunities of the clubs or a third party. This applies to commercial opportunities in relation to games within the tournaments of the association as well as outside. Where the matter concerns other opportunities than commercial opportunities, for instance in terms of sport, the association may interfere. In matters concerning commercial issues where both the association and the clubs have rights, both parties have declared to the Council that in the event of exploitation of rights and amendments this will require unanimity.

Vertical agreements

An agreement of assignment between the largest provider of mortar, Dansk Systemmørtel A-S, and Faxe Kalk A/S, the largest provider of burnt lime, which states that one purchases the mortar activities from the other, contained an agreement of supply that binds the buyer until the year 2005 to cover his full supply of burnt lime and carbide products from the seller.

The Council found that the complex of agreements involved detrimental effects on competition. This was caused by the pricing stipulations in the supply agreement which involves a distortion of the price structure in the mortar market, and the exclusive purchase obligation for 10 years which shields the buyer from competition from other suppliers of burnt lime. Moreover, the binding period of 10 years of the competition clauses involved anti-competitive practices. Following negotiations the supply agreement was amended so that the new agreement remains in force until the end of 1998 which means that the buyer's exclusive right to supply burnt lime to the seller is reduced from 10 to 3 years.



Professor
Svend Hylleberg



Professor
Peter Møgelvang-
Hansen

Decisions made by the Competition Council can be brought before the Competition Appeals Tribunal. In 1997 the Appeals Tribunal made decisions in 21 cases. Nine decisions were affirmed and two were dismissed, whereas 10 were reversed. This is a new tendency, as decisions by the Council were previously affirmed in the vast majority of cases. It is not obvious whether this is due to the fact that the Competition Council has more actively attempted to exploit the scope of the act or whether, to an increasing extent, the Appeals Tribunal will make its own assessment of competition policies.

The new Competition Act

The first months of the year were influenced by the work of finishing the draft bill for a new Competition Act. The bill was introduced in February and adopted at the third hearing on May 30. All parties – except the Socialist People’s Party and the left-wing party Enhedslisten who abstained – voted in favour of the bill. The act as a whole came into force as at January 1, 1998, whereas certain rules came into force earlier, including the rules for the new Competition Council.

The work concerning the act meant that 120 questions from the Committee for Trade and Industry were answered. The new act has expanded the Competition Council from 15 to 19 members. The Council incorporates comprehensive knowledge of public and private trade and industry, including legal, economic, financial and consumer relations. The chairman and eight of the members of the Council are independent of commercial and consumer interests. One of these members shall have a special insight in government business activity. In addition, the Minister for Business and Industry appoints seven members on the recommendation of selected trade organisations, one member on recommendation of consumer organisations and two members with expert knowledge of public business enterprise on recommendation of the municipal organisations.

Professor Svend Hylleberg, Doctor of Economics, who has been the chairman since 1992, was re-appointed chairman of the

new Competition Council. The new deputy chairman is Professor, Peter Møgelvang-Hansen.

EU, OECD and WTO

The Competition Authority is in charge of various tasks in connection with the administration of EU’s competition rules. This applies to cases under the prohibition provisions in articles 85 and 86 of the Treaty and merger cases. In addition, the Competition Authority participates in the work concerning new measures in the field of competition.

It appears from the Competition Act that it is the Competition Authority that assists the European Commission when it carries out control investigations in Danish undertakings. The most recent control investigation in Denmark took place in 1995. The Competition Authority participates in EU’s Advisory Committees in the area of competition. The Commission consults the member states via the Advisory Committees on decisions in matters of competition and mergers. The Committee makes an opinion, which is confidential in competition cases and public in matters concerning mergers.

In the area of legislation a number of

In the **field of competition** the Commission has fined Volkswagen AG a penalty of 102 million ECU (equal to approx. DKK 800 million) for having prevented parallel import of cars of Volkswagen and Audi makes from Italy to Germany and Austria for a period exceeding ten years. This is a record high fine made by the Commission for violation of the prohibition under Article 85 (1) on anti-competitive agreements, etc.

In the **field of mergers** the large merger between the two American aircraft companies Boeing and McDonnell Douglas was approved after the case had been presented to the Advisory Committee three times. The Commission also approved the agreement between Coca-Cola and Carlsberg to establish a joint venture Coca-Cola Nordic Beverages A/S on the condition that Carlsberg sold some of its brewery activities - i.a. Jyske Bryg. The merger between Ameritech and Tele Danmark was approved right away by the Commission.

amendments have been adopted. This particularly applies to the regulation on control of mergers which i.a. has been expanded with a new community dimension concept, and the legislative situation around joint ventures has become more clarified.

Moreover, a number of regulations on group exemption have been prolonged in the light of the Commission green paper on vertical restraints, the Commission has published a new "de minimis communication", and new rules have been published on access to documents in competition matters. In addition, the Commission has published a notice concerning delimitation of the relevant market in the Community competitive legislation.

The Competition Authority participates in the OECD's competition committee and in a number of working parties under the committee. For instance, the interaction between trade policy and competition policy has been given a very high priority in the OECD. Efforts have also been made to establish rules which are to strengthen cooperation between competition authorities in anti-competition cases with an international dimension - particularly in the so-called "hard-core" violations (price agreements, market sharing, etc.).

The interaction between trade policy and competition policy has also been discussed in the WTO where a special working party has been assigned to provide a move to the WTO's ministerial conference in 1998. The working party shall in particular discuss a global framework for competition policy, including common competition policy principles on an international level and the establishment of an instrument of cooperation in relation to conflicts within the field of competition.

2.3 ENERGY

The Competition Authority handles the public control concerning prices etc. of electricity, district heating and natural gas. The two committees set up - the Committee on Electricity Prices and the Committee on Gas and Heating Prices make fundamental and major decisions. The Committee on Electricity Prices held seven meetings in 1997 and the Committee on

Gas and Heating Prices held five meetings. The Authority on behalf of the committees makes decisions where fundamental rules for such decisions are fixed. In 1997 the committees made 79 decisions whereas the Authority decided 344 cases.

The Chairman of the two committees on energy prices is Managing Director Hans Henrik Høgsbro Østergaard. Deputy Chairman is Professor Peter Møgelvang-Hansen.

All decisions may be brought before the Competition Appeals Tribunal. In 1997 the Appeals Tribunal decided eight cases in this area of which seven were affirmed and one was dismissed. Decisions by the Appeals Tribunal may be brought before the courts of law, and presently three cases are pending before the High Court.

Shortly before the summer holidays of 1997, rules were incorporated in the Act on Heat Supply as well as in the Act on Electricity Supply to indicate where a direct customer relation exists between supply companies and tenants.

Moreover, the Act on Electricity Supply¹⁾ has been radically amended as from January 1, 1998. Before the 1997 summer holidays Folketinget adopted the Act on Liberalisation of the Electricity Market which enables competition on the electricity market in so far as concerns deliveries to customers or distribution companies who buy more than 100 GWh in a year. In addition, the production phase is separated from the so-called system responsibility, which deals with the rules concerning access by third parties etc. Finally, the act determines what is understood by priority production - production from windmills and local combined heating and power stations - to be taken by all customers. The act has been notified in the EU where it was accepted in December 1997.

In the years to come, the work of the Authority in the energy field will be influenced by the initiated market opening in the electricity field and an anticipated similar market opening in the field of na-

1) This Act and the administration of some parts of the act adopted in 1996 on complementary activities of electricity companies are financed through payment from the players who are covered by the acts. The total amount concerned is DDK 4.4 million.



*Managing Director
H.H.H. Østergaard*



*Professor
Peter Møgelvang-
Hansen*

As an example of cases from the **heating area**, the Committee has handled a number of cases concerning determination of substitute prices in connection with the sale of heat by waste incineration plants to traditional heating plants. The Committee on Prices of Gas and Heating has maintained the principle that heating plants shall not pay more for the heat from waste incineration plants than the price at which the heating plant could itself produce the heat or could purchase it from third parties. Moreover, the price should not exceed the costs of production of hot water in the waste incineration plant.

The Committee on Electricity Prices has handled, i.a., a vast number of cases concerning the complementary activities of the electricity companies. In the case of some companies the calculations concerning these activities were particularly inadequate, and some cases showed losses from the activity concerned. It is stipulated in the act that the complementary activities shall yield a profit, which as a minimum corresponds to the costs. If this is not the case, the monopoly activity - electricity - subsidises a competitive activity at the same time as the electricity consumers are paying for an irrelevant service. Moreover, the act stipulates that complementary activities in electricity companies shall not lead to distortion of competition. By way of the handling by the Committee of these cases, the conditions for a number of electricity companies have been corrected in accordance with the stipulations of the act, and the electricity companies have learned to realise that complementary activities are commercial activities.

tural gas. This will require that the focus of the sector regulation will be the natural monopolies - the network activities - whereas production and sales functions will gradually become more and more covered by the general competition legislation.

2.4 PUBLIC PROCUREMENT

The responsibility for the incorporation into Danish law of the EU public procurement directives lies with the Competition Authority. In this connection the Authority is supervising whether the public procurement regulations are observed and, if necessary, it may submit cases to the Public Procurements Tribunal. In addition to investigations of concrete complaints, the Authority acts as an advisory board to

authorities, organisation and undertakings concerning the rules.

The number of concrete cases and advisory statements went up by more than 50 per cent in 1997 - to 170. At the same time the Authority has succeeded in continued solution of concrete cases at the lowest possible level of conflict, so that in 1997 the Authority had to submit only one single case before the Public Procurements Tribunal.

The Authority also represents Danish interests in the EU and in the WTO. In relation to EU, the Authority participated in seven meetings, including meetings on considerations on the future public procurement regime in the EU. In relation to the WTO, the Authority participated in four meetings on the administration of the WTO agreement on public procurement and about possible improvements in this agreement.

The Authority has implemented an EU initiative for the purpose of assisting Danish undertakings in overcoming the barriers that might arise in connection with participating in EU public procurement in other countries. 16 cases of this category were dealt with. A following group with representatives from authorities, organisations and undertakings follows the efforts. In addition, a big conference was held in Eigtveds Pakhus on the EU initiative where also the responsible EU Commissioner, Mr. Mario Monti, took part.

1997 also saw the initiation of preparations of a pilot project for the purpose of ensuring an effective observance and enforcement of the public procurement rules across the borders of the pilot countries through identification, implementation and application of "best practice" and relevant reporting to each other and to all of the EU member states.

2.5 GOVERNMENT SUBSIDY

On September 1, 1997, the area of government subsidy - with the exception of subsidy to shipyards and steel works - was rescheduled from the department of the Ministry of Business and Industry to the Competition Authority. The Competition Authority offers advisory functions to

authorities concerning the compliance of government subsidy with the relevant EU rules and regulations.

In this connection, the Authority acts as the chairman and the secretariat for "the advisory group concerned with government subsidy". The advisory group performs assistance with the assessment as to whether initiatives include elements of government subsidy, and with the current handling of cases of government subsidy - including notifications towards the Commission.

The Authority coordinates the forwarding of ministerial reports on government subsidy to the WTO and to the EU Commission. Finally, the Competition Authority prepares EU Council meetings (typically meetings in the Industrial Council), whenever the agenda includes issues on government subsidy. This also includes the Authority's participation in meetings of the working party of the Council. In the last six months of 1997, nine meetings were held. 1997 saw a high degree of attention to the negotiations on new rules of government subsidy where Denmark has stressed the transparency and the rights to complaint for undertakings that are affected by government subsidy to their competitors.

2.6 INFORMATION

The new act has involved an increased need for information. Meetings have been held with approx. 50 trade organisations in order to provide information and to investigate the needs of the undertakings for information in connection with the new act. Shortly after the adoption of the act, an easy-to-read leaflet was published which has been distributed in well over 25,000 copies. Several trade organisations, for instance the accountancy trade, have circulated the leaflet to their members. A book and a cd-rom including the preliminary work of the act has also been published. The new act has also resulted in a modernisation of the information policy. The Authority's homepage on the Internet will become the turning point in this information policy.

As from 1998, the decisions made by the Council will be available on the Internet from 2.00 p.m. on the same day as the meeting of the Council. Also printed publi-

cations will be published on the Internet. The publication "Konkurrencenyt" will be continued in a new and larger format. The publication will continue as a newsletter, but with an increased number of pages it will also include articles on the practice of the Council, international affairs and research relating to competitive finance and law.

In order to mark the new act, a conference was held in November at the Hotel Eremitage. The target group of the conference included decision-makers in major Danish undertakings, and 275 delegates attended it. The main speakers at the conference were Competition Commissioner Karel van Miert and Minister for Business and Industry Jan Trøjborg.

In November the Competition Authority published the "Competition Report", which is intended for publication each spring, beginning in 1999. The Report is to provide the reader with an insight in the most recent development within the fields of competition, liberalisation of sectors of trade and industry, public regulations, public procurement, and government subsidy. The Report will elaborate on the development in legislation as well as practice and in legal and economic theory. The Reports will also include sections of a year-book nature with an analysis of decisions in the various fields of the Authority.

The purpose is to inform and to create a debate, and to provide an insight in what is happening in the field for undertakings, authorities, organisations, researchers at

Chapters in the first competition report published in December 1997

1. Competition in Denmark and the new act
2. Perspectives for the competition policy
3. Access barriers and regulations on unfair practices
4. Monopolies and essential facilities
5. Are vertical anti-competitive agreements harmful?
6. Public procurement – competition and efficient application of resources
7. Measuring the competitive intensity
8. Most essential decisions by the Competition Council in 1997

universities and institutions of higher education, business advisors, and others.

2.7 MINISTERIAL SERVICES

In 1997, the Competition Authority has used considerable resources on the preparatory work of the act in the field of competition and concerning the EU com-

petition rules, public procurement rules and government subsidy rules.

For the purpose of answering questions from Folketinget and other ministerial services, requirements have been made concerning quality and observance of time limits in the Authority's measurement points.

Ministerial answers to Folketing questions	1997
Competition field (exc. Questions from Committee on Trade and Industry in the preparatory work for the act ¹⁾)	55
Field of public procurement and government subsidy	67
Field of energy ²⁾	12

1) There were 120 questions from the Committee on Trade and Industry during the reading of the act
2) Ministerial answers for the Minister for Environment and Energy

3. STAFF AND ORGANISATION

At the end of 1997 there were 102 permanent employees (47 female and 55 male employees) and seven office trainees in the Competition Authority. There were five part-time employees and the full-time equivalent figure is therefore somewhat lower than the number of employees, i.e. just under 100.

Staffing end of 1997	
	Staff number
Competition Act	35
Public Procurement Rules	8
Energy Acts	14
Legal International Secretariat	9
Project Department	14
Administration	17
Board of Directors, Council and Information	5
Total	102

Number of fulltime equivalent ¹⁾	
1994	99.3
1995	97.7
1996	93.9
1997	96.0

1) Exclusive of trainees

The average replacement cycle of staff has been approx. 10-15 per cent per year in the most recent years, which is assessed as an appropriate level. The staff replacement cycle is equal to an average of 13 per cent. The replacement cycle is higher for employees with less than 10 years' seniority and lower for employees of higher seniority.

Staff replacement	1994	1995	1996	1997
	Number of employees			
New employees	8	24	10	13
Retired employees	9	14	14	10

Out of the 102 full-time employees, 14 were civil servants and the remainder employed under collective agreement. The Authority executive consists of a Board of Directors of three and nine heads of department. The remaining employees constitute 56 principals/consultants and 34 office assistants (including IT).

	Total	Heads	Principals/ consultants	Office assistants
Average age	45 yrs	51 yrs	43 yrs	44 yrs
Average age in state	43 yrs			
Average seniority	15 yrs	21 yrs	12 yrs	16 yrs

The average age with the Competition Authority for all employees is 45 years of age and the average seniority is just under 15 years. Half of the academic staff are economists.

	Heads	Principals/ consultants
Economists	10	25
Legal consultants	2	19
Other ¹⁾	0	12

1) Primarily masters of business economics, law, and political science.

Supplementary training

The costs of external training in 1997 amounted to approx. DKK 1 million, i.e. just under DKK 10,000 per employee (including conferences and seminars). On an average, every employee was on a course for seven days. The efforts in supplementary training have gone up which is partly due to an increased requirement of competence caused by new legislation. Part of the scope of courses is connected with new employment of principals, where the ministerial field is involved in joint courses.

	1995	1996	1997
Average number of days of supplementary training/employee	6.9	5.9	6.9
Total costs of supplementary training	722483 DDK	713421 DDK	1012840 DDK
Costs/employee	6690 DDK	6860 DDK	9930 DDK

Absence

In recent years, the absence due to sickness has been slightly above the state average. This changed in 1997, where the absence due to sickness was substantially lower. One of the reasons for this was higher management focus, for instance in the form of conversations in connection with sickness.

	Number of absence days (exc. Saturdays/Sundays) per employee	
	The Authority	The State
1995	7.7	7.1
1996	8.7	6.4
1997	6.2	–

At the end of 1997, three principals were on leave till the end of 1999 or later. Moreover, one principal was stationed as a national expert with the Merger Task Force of the EU Commission's DG IV.

Staff-contentment survey

In 1996 and 1997, staff-contentment surveys were made in the entire area of the Ministry of Business and Industry. In five areas, group objectives were made. In three of the fields – the developing work and knowledge of the strategy of the Authority and of the Ministry – the Authority

Percentage of employees who agree wholly or partly	Outcome of the Authority		Group objective 1998
	1996	1997	
Have developing work	77	83	67
The Authority develops everyone regardless of age ¹⁾	31	35	45
Know of Authority's strategy	72	80	70
Know of Min. of Business and Industry's strategy	58	61	55
Good relationship between Authority and department ²⁾	38	44	55

1) Employees of 50 years of age or above
2) Employees who have considered the question

is already above the determined group objectives. In the remaining two fields, improvements have been made, but the situation is still not satisfactory. The staff-contentment survey of 1997 showed that the contentment of the employees with their managers' staff management did increase, but is still at an unsatisfactory level. Contentment with the professional competence of managers is high.

IT-application

As part of the strategy of the Ministry of Business and Industry in the field of IT, the Authority implemented an upgrade in 1997 of the pc-operating system and a transition to new office programs – Windows 95 and Microsoft Office 97. Users in the energy unit also use a special records database.

On the hardware side, approximately half of the workplaces have been upgraded with new high-speed Pentium computers. The other half is expected to be replaced during 1998.

In 1997, all users have got access to the Internet. In addition, the employees can search electronically in a vast number of reference sources – Karnovs lovsamling, EU-Karnov, Ugeskrift for Retsvæsen, etc.

Green figures

When placing its procurement of computer machinery, copiers etc., the Authority pays special attention to ozone-free units and the automatic hibernation of the machines, so that the energy consumption be limited. Generally, machinery with a high possibility of recycling is preferred. Over a couple of years, the Authority has switched to using energy-saving light bulbs to the widest possible extent. The new paper used is provided with green labels – Nordic Swan Label - and used paper is collected and sent for recycling.

	1995	1996	1997
Electricity consumption	134,425 kWh	130,240 kWh	138,285 kWh
Heat consumption	–	1051 m ³	947 m ³

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