

1998

ANNUAL REPORT AND ACCOUNTS



Danish Competition Authority



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**Danish Competition Authority
Ministry of Business and Industry
49 Nørregade
DK-1165 Copenhagen K
Tel +45 33 17 70 00
Fax +45 33 32 61 44
E-mail: ks@ks.dk
Internet: www.ks.dk**

**Graphic design:
*N. Olaf Møller***

**DTP and Printing:
*N. Olaf Møller***

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PREFACE

1998 was the first year of the new Competition Act, which is based on the same prohibition regime as most other European countries. The new act obviously left its mark on the work of the Authority over the past 12 months.

It was anticipated that the transition regulations of the act would involve many applications and the expectations were more than fulfilled. The Authority received more than 1000 exemption applications – most of them in the days leading up to 1st July. Based on experience from other countries, the Authority has set a goal that all applications will be considered by the end of the year 2001.

The "cartel cases" attracted attention during the year. The EU Commission heavily fined Danish undertakings which had participated in the preinsulated pipes cartel. Further, in Denmark a very extensive cartel cooperation within the electrician trade was disclosed. In that connection, the Authority for the first time conducted unannounced control inspections of the undertakings in question. Shortly after these "dawnraids", a number of the large undertakings showed their hands and produced material, which contributed to clearing up the matter.

The Authority is also responsible for issues concerning price and supply in the energy sector. In the electricity sector, the most significant cases have been in connection with the energy reform, which is due to be implemented in the near future. Because of the co-production of electricity and heating, the reform will also influence the heating sector.

In the field of public procurement, the Authority offers its support to Danish undertakings that encounter problems with public procurement abroad. At the initiative of the Authority, a pilot project has been initiated which aims to ensure that the public procurement regulations are interpreted in the same manner throughout Europe. The project, which is referred to as "the Danish initiative" is receiving helpful support

from the Commission and other European Countries. The Authority has carried on the work initiated in 1997 of focusing the organisation more on development. Experience shows that creating a good workplace environment based on clear values may also be the best way to promote external credibility and efficiency.

It is of significance to the undertakings and their advisors that they are promptly informed of decisions, which interpret the Authority's code of practice. All significant decisions are available on our homepage. The site also includes press releases and all guidelines and reports issued by the Authority. Altogether, the Authority attaches great importance to prompt and correct information. Therefore it is gratifying that our news publication "KonkurrenceNyt" received positive assessment in the reader survey that was conducted in 1998.

Equally gratifying was the result of the survey made among undertakings and advisors that had had dealings with the Competition Authority. The survey reflected a high degree of satisfaction in most areas, also compared to other similar surveys. However, this does not mean, that there is no room for improvement. Therefore we have initiated efforts to strengthen the quality in the decisions.

The productivity of the Authority has rose further in 1998. Despite the large increase which was achieved last year.

I am pleased to record that during this busy and exciting year, the Competition Authority has lived up to the agreement that was made in the first actual performance contract.

Copenhagen, May 6, 1999

Finn Lauritzen

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The overall strategic goal for the Competition Authority is, to contribute to a strong national economy in favour of business and consumers.

Competition policy is an important and central part of industrial and business policy. It is to ensure wellfunctioning markets of goods, services and capital. It is an important part of the framework conditions for the public/private interaction, and it is coordinated internationally with a view to ensuring all undertakings good international competitive conditions. Strong domestic competition has a positive influence on undertakings which will thereby be prepared to meet competition in the export markets.

The Danish competition legislation is modelled upon the same prohibition regime as in most other countries and in the EU.

It is the aim of the Authority to administer the act so as to make competition in Danish trade and industry at least as tight as in other small European countries. On this background, a mission statement and a strategy of competition policy have been formulated for the Authority.

In 1997, the Authority restructured the organisation in order to become more flexible and development oriented. With the project- and network-oriented organisation, a breakaway from the previous traditional office structure has taken place. This has increased productivity, development capability, the degree of specialist competence and staff satisfaction.

The Competition Authority is an agency in the Ministry of Business and Industry.

The Authority performs secretariat services for the Competition Council, the Committees on Electricity Prices and Heating Prices and advises on procurement and state aid.

The most important acts in relation to the Competition Authority:

Competition Act, Act No. 384 of 10 June 1997

The Danish Electricity Supply Act, consolidated Act No. 632 of 1 July 1996 as amended 12 March 1997

The Heat Supply Act, Act No. 382 of 13 June 1990

Act on Complaints Board, consolidated act on the Complaints Board for Procurement, Act No. 1166 of 20 December 1995

Act on Tenders, Act No. 216 of 8 June 1966 as amended 19 December 1989

EU directives on procurement of services, purchase of goods, construction industry, etc.

Mission Statement

Competition prevents abuse of power.

Strategy on Competition Policy

Competition promotes welfare and renewal for the benefit of consumers and business.

Therefore the aims of the Competition Authority include:

- equal competition opportunities for all undertakings
- consideration of competition to be included in political decisions
- efficiency and reasonable prices in areas where competition is not possible

These aims are obtained through:

- consistent and efficient case handling
- intervention against restrictive trade practices
- analyses at a high professional level
- communication of competition messages
- international cooperation
- serviceminded interaction with undertakings and consumers, organisations and authorities
- qualified servicing of the Competition Council and the Energy Price Committees
- constructive cooperation with the department concerning analyses, policy development and ministerial servicing

The Competition Authority shall be competent, serviceminded and in the lead.



1. REPORT

1.1 COMPETITION PROMOTION

New Competition Act

With the new Competition Act, which came into force on January 1, 1998, Denmark introduced the same principles of competition regulation as in the EU and in the majority of industrial countries, the so-called prohibition regime. The starting point is that agreements restraining competition are prohibited. This also applies if dominant undertakings abuse their strength to restrain competition. The Danish Competition Act does not include provisions on merger control.

The Act entails a "de minimis" rule for agreements. The main rule is that agreements are not covered by the prohibition if the aggregate turnover of the participants is below DKK 1 billion, and the market share concerned is below 10%.

Anti-competitive agreements may on certain conditions be exempted from the prohibition. Undertakings may also apply for a statement that the agreement or the practice of the undertaking is not covered by the Act (a negative clearance).

Violation of the prohibition of the Act may be punishable by fine determined by the courts. It is expected that the level of penalty will be substantially higher than was the case under the previous Competition Act.

Notifications under the transition rules

The Act incorporates a transition rule. This will ensure that anticompetitive agreements that were in force at the time of implementation of the Act do not suddenly become prohibited. If the parties submitted their agreements to the Authority prior to July 1, 1998, they may be maintained until they have been evaluated under the stipulations of the new Act.

By July 1, 1998, the Authority had received notifications concerning 1,070 agreements. This was more than anticipated. The majority of the notifications were received in the last days up to July 1. The distribution of the agreements on trades is reflected in the table below.

The Authority gives priority to handling the notifications so that three circumstances are of particular importance:

- whether the case is of major social importance,
- whether the case may constitute a model for a certain number of similar cases, or
- whether it is of importance that a prompt decision be made.

The Authority has drawn up a plan for handling these agreements. The plan allows for the fact that in the beginning the number of principal – and thereby also more labour intensive – cases will be relatively higher. The objective is for the "bulge" of old agreements to be carried through in a maximum of 3½ years.

Notified agreements under the transition rules in the Competition Act	Number of agreements
Trade:	
Agriculture	53
Food, beverages and tobacco industries	70
Chemical industry	45
Other industries	54
Power, gas and heating supply	115
Construction industries	77
Wholesale trade and provision of goods	76
Retail trade	70
Post and telecommunications	68
Banking and financing	123
Insurance	106
Real estate admin. and trade, business service	44
Entertainment, sports, etc.	79
Other trades	90
Total	1070

Production figures, competition cases				
	1995	1996	1997	1998
Number of new cases	717	835	909	2406
Number of concluded cases	--	657	766	960
Of these:				
Proper Council decisions	57	48	40	68
Executive Committee decisions ¹⁾	47	49	21	--
Cases of information for the Council	104	105	117	75
Strictly Authority cases	--	455	588	817

1) Note: Under the new Competition Act there is no Executive Committee.

Decisions

Decisions of cases of a fundamental or significant financial importance rest with the Competition Council. The Competition Authority is in charge of the day-to-day administration of the Act, the preparation of cases to be submitted to the Council and on behalf of the Council it decides cases in accordance with practice or in accordance with guidelines set out by the Council.

In 1998, the Competition Council held 10 meetings. At these meetings, the Council made decisions in 68 cases. The Authority made decisions in 960 cases.

The substantial increase in the number of competition cases in 1998 is mainly caused by the many notifications of agreements under the transition rules of the new Competition Act, see further details in the table above. The new Competition Act has also involved a higher number of cases being submitted to the Council for the purpose of determining practice. Below are some fundamental decisions in the main areas of the Act.

Cartel cases

Towards the end of the year, the media reported on possible cartel activities in the building and construction sector. In late 1998 and early 1999 the Authority received more than 100 confessions from undertakings in the electrician trade which participated in illegal co-ordination of tenders. In connection with the disclosure of the cartel, the Authority for the first time made use of its possibility to conduct unannounced control inspections with undertakings. Shortly afterwards, several major undertakings chose to show their hands and contribute towards clearing up the matter. So far, the work of clearing up has demon-

strated that co-operation within tender cartels has been extensive. The Authority gives high priority to the work of disclosing the tender cartels and will allocate substantial resources to this work also in the coming year.

Agreements

According to the new Act the undertakings themselves have to document that anticompetitive agreements offer such benefits that they should be allowed. The four requirements of the Act in order to be exempted from the prohibition of the act are that the agreement:

- contributes to improving the efficiency of production or distribution of goods or services etc. or to promoting technical or economic progress
- allows the consumers a fair share of the resulting benefits
- does not impose on the undertakings concerned restrictions which are not indispensable to the attainment of these objectives, and
- does not afford such undertakings the possibility of eliminating competition in respect of a substantial part of the products or services etc. in question.

This has involved prohibition of several agreements that were acceptable under the stipulations of the old Act. In spring 1998, the Authority published guidelines concerning the prohibition against anti-competitive agreements.

The Council has considered agreements and bye-laws of trade associations. Guidance by trade associations may often involve special facilities for the members of the association and a rationalisation of routines. This may benefit customers. But at the same time there is a risk that competition on, say, price and quality is restrained. Therefore the bene-

ficial effects must be balanced against possible harmful effects on competition.

In one concrete application, the Council has indicated that the bye-laws or regulations of a trade association will not generally be covered by the prohibition rules of the Act, in the event that:

- they do not include regulations on common prices, discounts or terms of payment,
- they do not significantly impair buyers' possibilities,
- it is voluntary for the members to follow the regulations.

If all of these conditions are not met, the bye-laws have to be considered specifically. The main principles are underlined in a number of concrete decisions.

Abuse of a dominant position

The Competition Authority often receives complaints that one undertaking refuses to supply to another undertaking. The starting point for considering these cases is on the one hand the right of the supplier to decide for himself, with whom he wishes to do business. On the other hand, a dominant undertaking shall not in a non-objective manner obstruct others from doing business. A refusal to supply is covered by the act and thus prohibited in the event that:

- the supplier holds a dominant position in the relevant market,

The Council decided that three wholesalers in the field of pharmaceuticals are to discontinue a concerted practice. The wholesalers used the same scale of discount on the sale of non-pharmaceuticals to dispensing chemists. The Council made a point of the fact that the concerted practice removes the incentive of competition among the wholesalers. Each individual wholesaler should himself determine his discount rates on the basis of his own circumstances of expenditure.

The Council prohibited recommended prices of raw wood agreed between an association of major forest owners and an organisation of woodworking industries. The price lists were very detailed and very specifically laid down differences in wood prices in individual districts of the country. The prohibition did not apply to circulation of price statistics.

The Council also decided that the local association branches under a trade association shall cancel their agreements on prices and limitation in the possibility of advertising. The agreements had to be cancelled because competition in the trade was limited by the overall effect of these agreements.

- the supply is of significant importance to the complaining undertaking,
- the supplier's reason for his refusal to supply is not factual, reasonable, objective, and consequently administered.

Refusal to supply cannot simply be justified by capacity problems. If capacity problems do exist, the undertaking will have to divide supplies among the customers according to reasonable, objective criteria.

The Competition Council has decided a couple of cases on refusal to supply in 1998 where these criteria were laid down.

Montana Møbler ordered to supply

The Competition Council has ordered that Montana Møbler deliver bookcases to the furniture store of P. Lindegaard Poulsen of Odense on the general terms and conditions of the company.

The Council found that by refusing to supply to Lindegaard Poulsen, Montana Møbler had abused its dominant position in the market for exclusive furniture. In this market, Montana Møbler has a market share of between 25 and 40%, which under the Competition Act does not in itself constitute a dominant position. However, the company substantiates its high-quality concept by fixing recommended consumer prices. These prices include high retail markups, which the company seeks to maintain by fixing recommended discount rates towards furniture stores. Montana Møbler encourages dealers to contact the company if they wish to change these rates. The Council found that this conduct could only be practised by a dominant undertaking.

The Council ordered Montana Møbler to supply to Lindegaard Poulsen that has an obvious commercial interest in stocking Montana bookcases.

Aalborg Portland's prices for cement

Upon an assessment of Aalborg Portland's prices for cement in the Danish market, the Competition Council found that it is not substantiated that Aalborg Portland abused its dominant position.

Aalborg Portland is the only Danish cement producer. The company has a market share of approx. 85% and has a dominant influence on production and sale of cement in the Danish market. The remaining part of consumption is covered by two minor cement importers.

Aalborg Portland exports approximately half of their cement production, at approximately 50% of the price charged to their Danish customers. Moreover, most of their exports are for distant countries, whereas exports to nearby countries

(Germany, Sweden and Norway) constitute only a minor part of the company's production. There are no imports from these countries, either.

It was pointed out that Danish cement prices do not differ significantly from prices in the surrounding markets. The Council also pointed out that there are no barriers of any technical or legal nature which prevent increased imports from cement producers in other countries.

Car dealer mark-ups on sale to other EU-citizens

The Competition Council has ordered the Association of Danish Car Dealers (Danmarks Automobilforhandler Forening (DAF)) to specify to the members that even though pricing is free, it is not allowed to encourage a general practice of claiming a higher price merely because the buyer resides outside Denmark.

The order follows a complaint referred by the European Commission for consideration under the Danish Competition Act. In a circular, DAF had indicated that the individual freedom of the members to lay down prices and discounts could be taken to mean that they were at full legal liberty to set a higher mark-up on sale to non-Danish EU citizens.

Bang & Olufsen ordered to supply

The Competition Council has decided that Bang & Olufsen – on general terms and conditions – shall sell its products to eight selected stores in the Merlin chain and to one Electronic World store.

With reference to its dealer conditions, B&O had refused to enrol the stores as dealers of B&O products. In order to be able to sell B&O products, Merlin had developed a "shop-in-shop" concept that was to meet the general dealer requirements of B&O. However, B&O had referred to the fact that the wish to sell B&O applied only to a few of the stores of the Merlin chain. B&O have appealed the decision.

Scandlines' truck discounts

The Competition Council has decided that Scandlines' truck discounts were distorting competition and were prohibited. The Competition Appeals Tribunal set aside the decision.

In the opinion of the Council, Scandlines held a clearly dominant position in the ferry market in Denmark and to and from Denmark. Scandlines had a market share in this market in excess of 50%.

The Council found that there was a separate market for ferrying of trucks with two end-to-end ferry crossings. This is due to the fact that Scandlines had special, favourable price conditions by selling tickets for two crossings (combination tickets) compared with the price and discount conditions applying to the sale of one-way tickets.

The Council was of the opinion that in order to remove the distortion of competition, the company had to change price and discount conditions for combination tickets so as to allow a bigger scope for competition. Scandlines should not have the possibility of abusing the monopoly on the Baltic or the dominant position on all other crossings to inflict unreasonable conditions upon its competitors.

However, the Competition Appeals Tribunal did not find that there was any basis for assuming the existence of one market for combination ferrying in Denmark and to and from Denmark.

All of the cases will "stand or fall" with the way in which the relevant market is delimited. The Competition Authority therefore accounted in detail for the delimitation of the relevant market in a guideline published in 1998.

Public activities

The ownership is of no significance to the competition-law assessment. However, it is of significance whether a business activity is subject to public regulation. This is the case whether the regulation applies to a private or a public enterprise. If the regulation involves harmful effects on competition, the Competition Authority may contact the authority concerned and draw attention to the harmful effects of the regulation. Such application may be made public.

During the past year the Council has published only one application. Moreover, in some

cases a more informal application has been submitted, since the Council has wished to reserve publicised applications to cases of fundamental importance. The Council issued a guideline which accounts in detail for the Competition Act and the public sector.

The Competition Authority and Section 20 of the Act on Charge Cards

In 1998, in co-operation with the department of the Ministry of Business and Industry and the National Consumer Agency of Denmark, the Competition Authority implemented a survey and analysis which has led to the submission of a proposal on amendment of Section 20 of the Act on Charge Cards. The background for the proposal is an increasing desire to be able to use the charge card in connection with electronic trade, including trade via the Internet. The bill was enacted in April of 1999.

The amendment means that the Competition Authority shall have powers to interfere in the event of unreasonable fees, etc.

User survey of case handling and services

In the second half of 1998, the Authority carried out a user survey in the field of competition. Attorneys, undertakings and associations that had had cases decided by the Authority within the past 12 months were asked about their opinion of the Authority's case-handling, services and professional standards. The user survey provided the following main results:

In general, the outcome of the study is considered as good, particularly in the actual areas of duration of case handling and service level, where user satisfaction is the highest.

In some areas, trade awareness and legal and economic competence, user satisfaction is lower. It is very likely that it will be difficult to increase the satisfaction rate of the Authority's trade awareness as undertakings will always have higher knowledge than the Authority. For the coming period, the Authority has opted for an improvement of the legal and economic competence. Over a span of 3–4 years, it is the objective that the average user satisfaction in the areas of financial competence and legal competence shall exceed 70%. The user survey will be conducted again in 1999 and expanded to include the areas of energy and public procurement.

The EU-area

The Authority is a member of the Advisory Committees, which the EU Commission is to consult prior to making decisions in competition and merger cases. Moreover, the Authority assists the Commission when it conducts unannounced control inspections with Danish undertakings.

With the new Competition Act and the plans of the Commission to increase decentralised application of the EU regulations, a strengthening has taken place of the co-operation between the Competition Authority and the Commission, which in several cases has transferred cases to the Competition Authority.

The decisions of the Commission serve to prove that undertakings, which do not

User survey 1998	Positive or very positive replies	Negative or very negative replies
Subject:	----- per cent of total -----	
Duration of case handling	70	28
Reasoning sufficient	72	28
Information before decision	67	27
Impartiality of Authority	56	35
Getting in touch by phone	96	2
Returning calls	96	2
Service level in general	84	8
Intelligibility of letters	92	8
Legal competence	62	30
Economic competence	53	24
Trade awareness	46	40

observe the competition regulation, are dealt with efficiently. Thus, the Commission has imposed large fines i.a. on Danish undertakings that violated the EU regulations on prohibitions against anti-competition agreements and abuse of a dominant position. The merger area saw an increase in the number of notifications to the Commission of planned mergers. The majority of the mergers will be approved by the Commission, possibly subject to various structural undertakings, for instance, divestment of certain specific activities. The Authority participates in the hearing of a number of the cases in the Advisory Committee.

The DAF case

A complaint to the Commission concerning a circular of the Association of Danish Car Dealers (Danmarks Automobilforhandler Forening (DAF)) concerning dealer mark-ups from 1998 was referred to the Competition Council, which made a decision in the case. The Competition Council ordered DAF to issue a correction circular concerning dealer mark-up in connection with sale to other EU citizens. In the circular, DAF was to point out to its members that even though in principle they are entitled to fix their own prices and mark-ups, it does not mean that they are entitled as general practice to claim a higher price merely because the buyer is residing outside Denmark.

The preinsulated pipes cartel

In the case concerning the preinsulated pipes cartel, ten European producers of preinsulated district-heating pipelines were fined a total of 92.21 million ECU (approx. 690 million DKK), because they had entered into a secret price and marketing agreement in violation of the prohibition against anticompetitive agreements – Article 81(1) EC. The cartel included the following undertakings with production plants in Denmark: ABB, Løgstør Rør A/S, Tarco Energi A/S and Dansk Industri A/S.



OECD

The Competition Authority is participating in the competition committee of the OECD and in three working parties under the committee. They deal with competition and regulation, international co-operation and trade and competition

The interaction between trade policy and competition policy has received substantially higher priority with the OECD, and should also be seen as an input to the work taking place within the WTO on the same subject. In 1998, the OECD issued a recommendation on hardcore cartels. It is to encourage co-operation among competition authorities, so that together they may combat restrictive trade practices internationally. This particularly applies to violations such as price fixing agreements, market sharing, etc.

The OECD has initiated a survey of deregulation systems and reforms in individual OECD countries. The project is described as "the Regulatory Reform Review". As part of the project, Denmark will be assessed by the OECD in 1999. Preparations started as early as 1998 where the Authority – together with a large part of the central administration – has contributed with input to the OECD report on Denmark. It will be published before the end of 1999.

1.2 PUBLIC PROCUREMENT AND STATE AID

The Authority is monitoring that the EU public procurement rules are observed. The monitoring takes place, i.a., by the Authority's receipt of complaints from undertakings and organisations concerning tenders for public procurement. The number of complaints handled in 1998 was 61. If there are sufficient grounds for suspicion, the Authority contacts the principal concerned and through negotiations attempts to legalise the procedure. If it is not successful, the Authority may submit the case to the Complaints Board for Public Procurement. The Authority has no formal decision making competence in the area of public procurement.

EU initiative

In 1998, the EU Commission announced what is going to happen in the years ahead for the purpose of opening the national public procurement markets to competition from suppliers from other member states. The principal lines in the announcement are focused on specifying and simplifying the code of practice, making the procedures flexible, strengthening the enforcement of the rules, and stimulating the application of electronic communication. In addition, the

member states and the European business sector are encouraged to contribute actively towards these objectives.

The Authority has anticipated this development. In 1996, an initiative was implemented the purpose of which is to improve the opportunities of Danish business life to have a share of public procurement contracts in other countries. Undertakings are often encountering barriers when they submit tenders for public procurement abroad. In such events the Authority is ready to assist in ensuring that public procurement rules are observed. The initiative is based on the close contact of the Authority with the competition authorities in eight other countries and with the Commission.

One of the reasons why public procurement cases across borders come up is that the rules are interpreted differently. In 1998 the Authority initiated a pilot project with participation from six EU member states with the purpose of ensuring a more unilateral understanding of the public procurement rules. This also includes development and testing of models for better enforcement of the rules in the individual counties. The Commission supports the project and in its abovementioned announcement referred to the project as the first attempt towards having a well-functioning single market for public procurement.

State aid

The Authority offers advice to the authorities concerning issues of state aid and may provide recommendations but it cannot make decisions. It is up to the Commission and the Court of Justice to make the final decision as to whether a given arrangement constitutes state aid, and whether such an arrangement may be approved.

In connection with the advisory function, an advisory group has been established where the Ministry of Foreign Affairs and the Ministry of Justice have fixed seats. Other ministries participate on an ad hoc basis.

In addition, the Authority holds the chairmanship and serves as secretariat in the "crossministerial state aid group". A majority of the ministries are represented in the group which has been established to ensure experience exchange in the area, among other things.

In 1996, the Commission took the initiative to rearrange the state aid control with a view to making a more transparent, coherent and efficient policy.

1.3 ENERGY PRICE COMMITTEES

The provisions in the Danish Electricity Supply Act and the Heat Supply Act concerning price fixing and supply conditions for power, district heating and natural gas are enforced by the Competition Authority. Decisions are made by two committees, the Electricity Price Committee and the Gas and Heating Price Committee, that have been set up by the Minister for Environment and Energy. The Authority presents cases involving fundamental and new problems to the two committees.

The Energy Price Committees may interfere in prices and conditions if they are unreasonable, if they are fixed in violation of the "non-profit" principle, or if they are assumed to lead to an application of energy that is uneconomical to society.

In 1998 considerable efforts were put into the preparation of the coming energy reform. In this connection, the Authority participated in a number of crossministerial committees. In June 1998, the Authority published a report on Competition in the Energy Sector, and in December a report on benchmarking was published.

Production figures energy acts

	1995	1996	1997	1998
Number of new cases	403	516	439	684
Number of completed cases	--	450	423	388

1998 saw an increase in the number of new cases whereas the number of completed cases declined. In 1998, the unit for energy gave high priority to the work with the energy reform and it had to transfer resources to this work from case handling.

Electricity

In the electricity area the majority of the work was concentrated on making the liberalisation process function.

In a liberalised electricity market, the so-called system operators play a vital part. The sy-

stem operators are to determine prices of the main transmission network and lay down conditions for access to the network. Legislation requires the system operators to act independently of commercial interests in the remaining electricity area. The Electricity Price Committee therefore carefully followed the actions of the system operators in order to ensure that no commercial confusion was made with production and distribution interests.

The Committee has dealt with the price fixing of the two system operators in the main network. First of all, they dealt with the price fixing for the so-called balance power and in addition a specific assessment of the price level of the secondary network which is made available to the system operators.

Both system operators have chosen a tariff model according to which the entire network is considered as a whole where payment has to be made in order to get into and to extract from the network. In spite of this, the system operators fixed tariffs for the sea-bed cables to Norway, Sweden and Germany or on the Jutland border to Germany – the so-called border tariffs. The Committee instructed the system operators to cancel the announced border tariffs as the cables there must be taken to constitute part of the total main transmission network. However, the Committee found that it was legal to introduce special tariffs on those sections of the network – including the sea-bed cables – where there were capacity problems.

The Act enumerates a number of public service obligations, the payment for which the system operators shall undertake to distribute equally on all electricity consumers in Denmark. This equal payment is ensured through a distribution of the so-called priority production to all customers in the areas

of Eltra and Elkraft System, respectively. The Committee has also assessed the price fixing for this so-called priority production.

Gas and Heating

In the area of gas and heating a number of different types of cases has been dealt with. Here we wish to mention only one case which both in 1998 and earlier had significant importance for the district heating area.

The Committee has decided that in the event of delivery of hot water from one producer to another producer or distributor, the price shall not exceed the lowest of:

- either the costdetermined price with the supplier
- or the substitution price that may be calculated at the buyer's own production or purchase from third party.

1.4 INFORMATION AND CONSULTATION

Early in 1998 the Authority's homepage www.ks.dk became the primary source of information from the Authority. All decisions from the Council and the Energy Price Committees are normally published in full – including detailed particulars of cases – on the homepage. Publication on the homepage takes place, immediately after the cases have been decided.

Other information is also published on the homepage – and only on the homepage. Such information includes i.a. decisions by the Appeals Board of Competition, decisions from the Complaints Board for Public Procurement and the merger statistics of the Authority. Moreover, on the homepage it is possible to find all Authority publications, at the latest at the same time as they are published on paper.

The media have an important role when the public is to be informed about the activities and decisions of the Authority. Press releases are therefore used extensively.

In 1998, a consultancy agency implemented a survey of the news magazine of the Authority "KonkurrenceNyt". The overall impression of the survey was positive, both in relation to credibility, expert content, intelligibility and layout.

The main results of the survey are summed up in the table to the left.

Reader survey KonkurrenceNyt	Very satisfied and satisfied	Less satisfied and not satisfied	Don't know and other
	----- % -----		
Overall assessment	91	5	4
Expert content	91	3	6
Layout	81	11	8

Reader survey KonkurrenceNyt	Very reliable	Fairly reliable	Don't know and other
Reliability	88	5	7

The aim of the Authority is to maintain the positive image at the next survey, which will be repeated in the year 2000 at the earliest. The new Competition Act has been accompanied by, i.a., the publication of a number of detailed guidelines, and in 1998 in the area of public procurement the Authority published, i.a., an exhaustive aggregate guidance on the EU public procurement directives.

1.5 PROJECTS AND STATEMENTS

A major part of the development work of the Authority is made in projects where the Authority analyses fundamental problems in various fields of responsibility. It is anticipated that this approach to the cases will lead to a more efficient utilisation of resources, as the Authority will have a better basis for its day-to-day case handling by means of the project outcome. The outcome of projects will be published in the usual manner. 14-15 full-time equivalents are currently set aside for projects.

In 1998, 8 projects were concluded:

Projects concluded in 1998

- Competition in the energy sector
- Public transport
- Co-operative societies
- Price discrimination
- Pharmaceuticals
- Energy price statistics/benchmarking
- Waste disposal
- Two booklets on agreements and abuse of a dominant position

At the start of 1999, 8 projects were under preparation:

Projects under preparation end of 1998:

Measuring of competition intensity
 Natural monopolies
 Competition pressure and ability
 State aid
 Competition in the food sector
 Competition report 1999
 The asphalt trade
 Sports rights

The Competition Statement, which is going to be published annually in future, describes relevant competition-political problems illustrated by examples in international as well

as in Danish connections. Subjects selected are those of significance to the quality and understanding of the work of the Competition Authority, plus theoretical and practical circles of problems for the framework conditions of trade and industry.

The aim in the performance contract for 1999 is a statement with important analyses of a good exchange quality. The target groups are interested economists/legal consultants and generally interested citizens.

The first Competition Statement was published in December 1997 and the second in May 1999.

Analytical chapters in Competition Statement 1999

- Future focus of competition policy
- Measuring competition intensity
- Limitations and opportunities of the PBS-system
- Competition and public enterprise in the Nordic countries
- Concentration in the foodstuffs trade
- Competition rules and international trade
- Benchmarking as an instrument in competition policy
- State aid – effects on competition and efficiency
- Public transport and competition

1.6 PRODUCTIVITY

In 1997, the Authority introduced a system for computation of productivity of the individual units and the Authority where 1996 was the point of departure for the computations.

For the units of the Authority, figures of production are weighted and shown in relation to the time consumed. After a substantial increase in productivity of 13.5% in 1997, 1998 showed a further increase in productivity of 6.9%.

Productivity level 1996 – 98 Authority – index	1996	1997	1998
Average productivity	100	113,5	121,4
Increase on previous year	-	13,5%	6,9%

1.7 DURATION OF CASE HANDLING

Starting in 1999, the time spent on case handling is computed on different groups of cases which affect external partners/users and where the Authority has had a decisive

influence on the duration of the case handling. In the long term, the aim is that the duration of the case handling in 90% of cases shall be below the fixed number of months (cf. table). For 1999 the objective is that the duration of

the case handling shall be less than the fixed number of months for at least the same percentage of the cases as was the case in 1997. In concrete figures the objectives for the duration of case handling are as follows:

Aim 1999 for duration of case handling				
Type of case	Average case	Maximum		
	Duration of case handling	Duration of case handling	Performance target in 1999	Long-term performance target
	Number of months	Number of months		
Competition cases:				
Council cases	15.6	18	61%	90%
Authority cases	5.0	12	73%	90%
Energy cases:				
Committee cases	7.9	12	86%	-
Authority cases	4.0	8	89%	-
Procurement cases:				
Cases EU initiative	3.6	-	-	-
Complaints cases	2.4	-	-	-
Informative statements	1.1	-	-	-

Statement of Revenue and Expenditure divided into main objectives of the Finance Act			
Million DKK 1998-prices	Expenditure	Revenue	Net Expenditure
1. Competition promotion	22.8	0.2	22.6
2. Public procurement and state aid	7.9	-	7.9
3. Energy price committees	5.5	4.0	1.5
4. Assistance	14.8	-	14.8
5. General management and administration	10.8	-	10.8
Total	61.8	4.2	57.6
Net total	-	60.8	60.8
Revenue for the year	61.8	65.0	3.2

1.8 ECONOMY AND PERFORMANCE RESULT

In 1998, the Competition Authority's budget was a total of 65 million DKK and the profits for the year a surplus of 3.2 million DKK to be carried forward to 1999.

The accumulation is very much due to a different consumer pattern that originally anticipated for two initiatives in the area of procurement. One concerns assistance to Danish undertakings that encounter problems in relation to public procurement in other EU Member States. The other is a pilot project that is to ensure unilateral use of the public procurement rules within the EU. The accumulation of the Authority should also be seen in connection with some degree of uncertainty in relation to the amount of

revenue at the control of the electricity companies which makes it appropriate to have some reserves.

Moreover, the profit is due to the fact that a planned net staff intake has seen slower progress than anticipated. Finally the Authority has postponed a number of purchases and interior decoration works as a consequence of considerations to move to other premises. The majority of the accumulated capital is expected to be applied in 1999. On this background, the financial result is considered to be satisfactory.

In 1998, the Authority for the first time entered a proper performance contract with the department of the Ministry of Business and Industry. In the performance contract a number of objectives were determined, which the Authority would have to meet in its work.

The performance result is considered to be satisfactory as 21 out of 25 objectives were fulfilled and the last four were partly fulfilled.

1.9 ORGANISATION AND STAFF

Organisational change

In 1997, the Authority changed the organisation in order to make the company culture more development oriented. Through project and network organisation, teamwork, increased crosssectional co-operation between the units, and higher internal mobility it was and is the intention to improve productivity, development capacity, the overall professional level, and employee satisfaction.

In connection with the organisational change, an organisational and staffpolitical objective was formulated.

Objectives of organisation and staff policy

The Competition Authority is aiming at a project- and network-oriented, learning organisation which constantly allows for the changing needs of the external environment, and where responsibility and competence is widely delegated. Employees have an individual responsibility for their own development and shared responsibility for the tasks and the development of the Authority.

The organisation and staff policy is to contribute towards a good workplace which promotes the objectives of the Authority and meet the requirements and expectations of society. The Authority is to maintain and attract skilled employees and be characterised by high efficiency, quality and job satisfaction.

Management will build on clear objectives and requirements of the individual and set a good example so that interactive co-operation is supported.

Renewal of staff policy

On the basis of the staff policy objective, 1998 saw the launching of many vessels. Executive assessments have been introduced as a basis for executive development, agreement was made concerning pay policy for the Authority, a new qualification assessment system was introduced which forms the basis for pay determination and competence development, and a performance-related pay system was introduced. A senior policy has been determined and the usual retirement age has been fixed at 67. Moreover, the Authority has initiated the implementation of a number of group personnel policy requirements of the quality of recruitment.

Survey fulfilment of objectives

Main objectives of performance contract:	Met	Partly met	Not met
1. Development			
A. Strategy, organisation and management	4	2	-
B. Human resources	5	1	-
C. IT-application	1	1	-
D. Product development	1	-	-
2. Business system	7	-	-
3. Society	2	-	-
4. Users	1	-	-
Total	22	4	-

In 1999, the Authority will not implement large new staff projects but will work on providing roots for the many new measures, including in particular a follow up of the competence development of employees.

Composition of staff

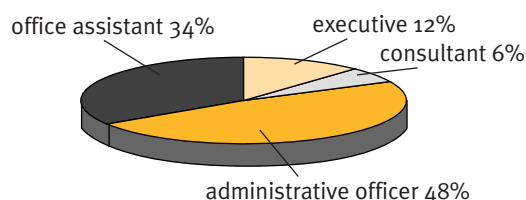
At the end of 1998, 104 persons were employed, with a distribution of 46 women and 58 men. In addition, 4 trainees were employed and two employees were on leave. In the administrative officer group (members of the Danish Confederation of Professional Associations) the share of female employees is up from 33% in 1996 to 39% in 1998.

Other groups only saw slight variations.

In the table below is a survey of the number of employees at the end of 1997 distributed in the working areas of the Authority.

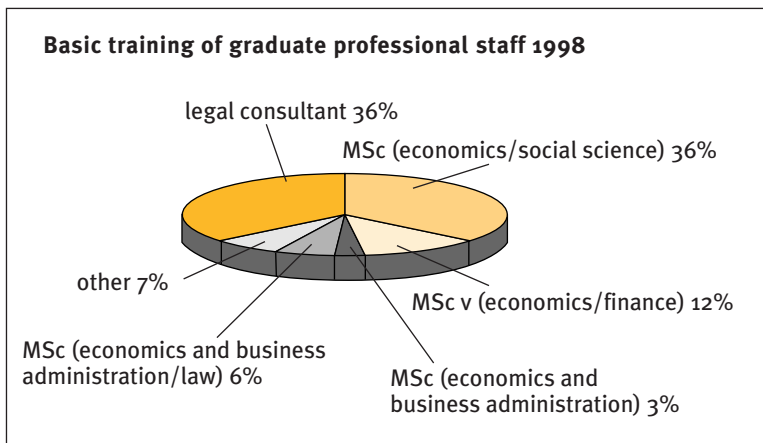
Staffing year end (excl. Trainees) by working areas	Number of employee Year end 1998
Competition Act	35
Procurement and State aid	10
Energy acts	17
Legal, EU and international	7
Projects	14
Administration	17
Management, Council and information	4
Total	104

Composition of staff 1998



The composition of employees has changed slightly during the past years. There are relatively fewer office assistants and more professionals. This is mainly due to an expansion of the number of employees where primarily graduate professionals have been employed. The number of executives has been constant during the period, but will drop by one in 1999.

The present distribution between graduate professionals and office assistants is considered appropriate.



Composition of education

The composition of the graduate professional staff at the end of 1998 is that of 48% economists, 36% legal consultants and 16% other education in social science, cf. figure. The share of legal consultants has gone up from 26% of the graduate professional staff in 1996 to 36% in 1998.

Over the past three years, the executives have been made up by 10 economists and 2 legal consultants.

Supplementary training and competence development

New senior officers go through a basic training, which in the course of the first 30 months' employment involves compulsory participation in an introductory course, courses on meeting and negotiating techniques, case handling and administrative

law and the relations with Folketinget, the Danish parliament, etc. Moreover, two languages have to be mastered, one at negotiating level and one at reading level.

The total time consumption for employees has been an average of approx. 3% of the total prescribed working hours. In 1998 the time consumption was as follows:

Training activities in % of working hours (time registration)	1998
Senior officers and consultants	3.8%
Office assistants	2.4%
Total	3.3%

Direct expenses (exclusive of pay) for supplementary training and competence development including participation in conferences in 1998 amounted to approx. 891,000 DKK equal to approx. 8,500 DKK per employee.

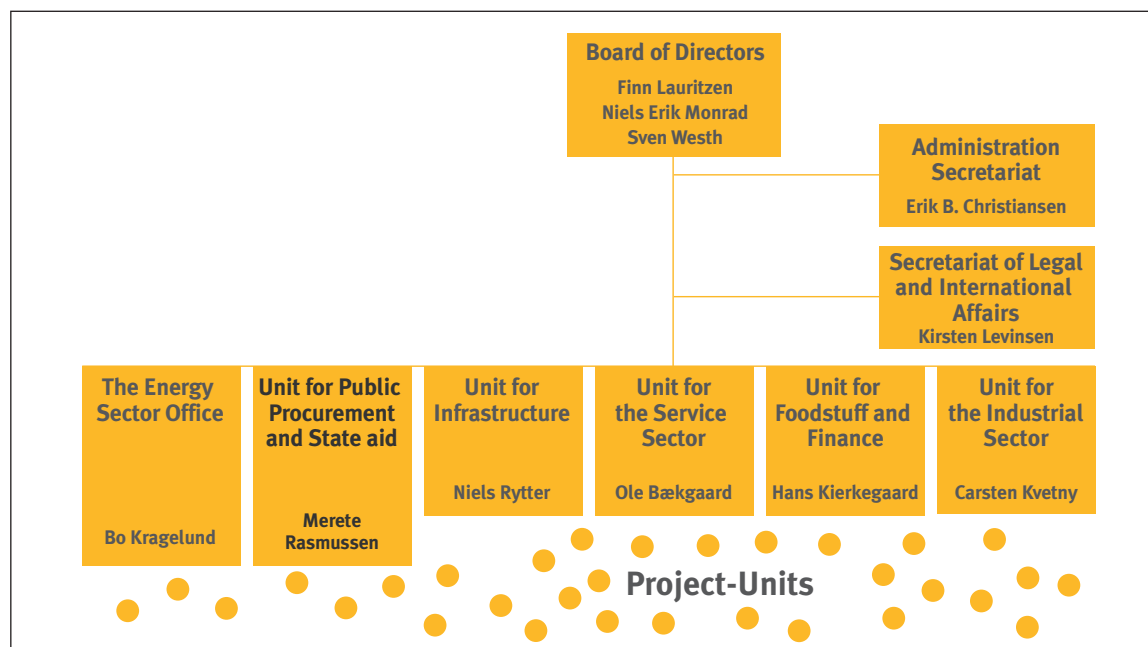
Absence due to sickness

In 1998, absence due to sickness was an average of 5.3 days per employee. The average for the central government as a whole in 1997 was 7.3 days per employee.

A contributory factor to the low figure of absence due to sickness within the Authority is that the Authority is pursuing an active sickness policy where conversations are held with every person who has had more than 20 days of absence due to sickness in the past 12 months.

	Number of days of absence due to sickness per employee (exclusive of Saturdays and Sundays)	
	The Authority	Central Government total
1995	7.7	7.1
1996	8.7	6.4
1997	6.2	7.3
1998	5.3	--

Organisation Chart





Danish Competition Authority

49 Nørregade

DK-1165 Copenhagen K

Tel +45 33 17 70 00

Fax +45 33 32 61 44

E-mail: ks@ks.dk

Internet: www.ks.dk

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Danish Competition Authority
Ministry of Business and Industry