The development of competition in Sweden in the 1990s

An executive summary of the report 2000:1
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Introduction

In June 1999, the Government commissioned the Swedish Competition Authority to conduct a wide-ranging inquiry into the question of how competition had developed in Sweden during the 1990s. At the time, the Competition Authority had been in existence for seven years and had been applying the Competition Act for the past six years. The last time such an investigation was carried out was nine years ago, when the ensuing report led to a thorough reorientation of Swedish competition policy.

The report that the Swedish Competition Authority has now presented at the Government’s behest constitutes a synthesis of the experience and knowledge that it has accumulated during its seven years of existence. To augment its findings, the Competition Authority has conducted a large number of interviews and studied material from various public reports, agencies, authorities and organizations.

The Competition Authority was not charged simply with describing competitive development and the current state of competition. It was also specifically required to investigate the obstacles to competition and other problems that prevent consumers from enjoying to the full the advantages that effective competition entail. Problems are there to be solved, and consequently the report contains more than 70 proposals as to how both small and large obstacles to competition in various fields may be eliminated.

The present material comprises a somewhat revised version of chapter 8 in the report, headed ‘Summarized Assessment’.

The government assignment

Under the terms of the assignment, the report should basically seek to describe the more important development trends discernible in various sectors of the Swedish economy. The study should, inter alia, assess the conditions for competition in various trade sectors on the basis of previous investigations. This assessment should consider such developments as the public sector’s greater exposure to competition. Study should also be made of cases dealt with by the Swedish Competition Authority under the Competition Act rules prohibiting anti-competitive cooperation and the abuse of dominant positions in the market, as well as cases coming under the rules governing judicial scrutiny of concentrations. The Swedish prohibitions are based on the competition rules in Community law.

Further, the assignment provides for an analysis, on the basis of the above study, of the effects these changes have had primarily with regard to companies and consumers. Areas to be examined should include the effects on competition in Sweden of EU membership, internationalization, the growing presence of foreign players, and new consumption patterns. The analysis should also include an investigation of whether greater competition has been to the benefit of the consumer, e.g. in the form of lower prices or better-quality goods and services. In addition, existing obstacles to competition should be identified. If in its analysis the Swedish Competition Authority finds that special measures are required in order to promote effective competition and consumer benefit, it should submit proposals to this end in its report.

Restrictions

The Swedish Competition Authority has chosen to look closer at developments during the 1990s in eight important fields, namely foodstuffs, forest and timber, energy, construction and housing, transportation, the media, finance and insurance, and health and medical care. Special attention has been paid to the competitive problems identified, including those resulting from the actions of companies, from anti-competitive regulations and from obstacles to establishment such as entry costs.

The studies and analyses in the report are based almost entirely on previous investigations and on the processing and compiling of official statistics and other trade statistics. The Competition Authority’s own investigations and decisions pertaining to the Competition Act have contributed to the report, as well as external material. In addition, interviews and
discussions have taken place with representatives of companies, authorities and committees of inquiry, of union and employer organizations and of other special-interest organizations for the purpose of assembling a body of opinion as to how competition in Sweden has developed over the past decade, which competitive problems exist and what may be done to improve conditions for companies and consumers.

**The development of competition in the 1990s**

In 1991, the government-appointed Competition Commission presented its final report, ‘Competition for Greater Welfare’ (SOU 1991:59). The picture that emerged of competitive conditions in Sweden at the start of the 1990s was based largely on a study the Commission had ordered from the Swedish Competition Authority’s predecessor, the Swedish Price and Competition Board, SPK. The study embraced 61 branches of Swedish trade and industry and sought primarily to describe the presence of obstacles to competition.

The Competition Commission concluded that in most of the sectors reviewed competition was unsatisfactory. Reasons included the existence of private agreements and cooperation between companies, the dominant position of certain companies and a high level of concentration, and public regulations and subsidies in many fields. Further, the Commission observed that competition had in many respects deteriorated during the 1980s.

Other public reports, too, painted a gloomy picture of the state of competition in Sweden at the beginning of the 1990s. Studies showed that productivity was low and that important markets in the Swedish economy were functioning poorly, leading to a lack of competition and high prices.

The present report from the Swedish Competition Authority takes the situation in 1990 as its point of departure and seeks to describe how competition in Sweden has developed over the past decade. In this respect it should be noted that assembling a full and complete picture of how competition has developed during the period under review proved a difficult, not to say insurmountable task. A number of clear indications and explanations as to how competition developed in the 1990s did however emerge from the Authority’s analysis.

**The national economy**

The Swedish economy is currently in a far more balanced state than at the beginning of the last decade. Inflation has declined markedly during the latter part of the 1990s and the inflation rate in Sweden at present is around zero. The low rate of inflation and the low expectations of any change in this respect have led to new company approaches. Rising costs can no longer automatically be passed on in the form of higher prices but have forced companies instead to consider things like enhancing efficiency in production. During the late 1990s, too, Sweden recovered lost ground in relation to most other countries as regards work productivity. Swedish price levels have converged towards the EU average even if they are still considerably higher. The economic trends described above suggest that the reforms introduced for the purpose of boosting competition have had a favourable impact on policies for economic growth and employment.

**Internationalization**

For a small country like Sweden with an open economy, striving for open borders and as free a flow of goods as possible has been a natural course to pursue. Internationalization is definitely not a new phenomenon for Swedish trade and industry. For a long time now, many Swedish companies have had the whole world as their market. Sweden’s trade exchange is very extensive and both import and export shares are relatively large.

The internationalization of business and altered conditions of competition have strongly characterized developments in the 1990s. Technological advancement and the liberalization of global trade have been among the most important stimulants. Direct investment and foreign ownership in Sweden have increased and the balance between the inflow and outflow of capital has improved. Establishments in Sweden have by and large resulted from acquisitions rather than the expansion of companies’ own operations. In the case of about half of the acquisitions notified to the Swedish Competition Authority at the end of the period under review, the buyer was a foreign undertaking. The advantages of foreign investment can be said to include capital injections, new expertise and competition generating innovation. International ownership markets may also be opened up. The
disadvantages include a decline in the number of active company owners in Sweden, which hampers the emergence of new enterprises. Also, the base for strategic resources like scientific research may be reduced.

**EU membership**

At the beginning of the 1990s, membership of the EU and participation in the Internal Market was viewed as the most important precondition for building up competitive pressure in the Swedish market.

After five years of EU membership, it may be reasonably stated that important benefits for the consumer have been achieved. One of the basic ideas behind the Internal Market is the achievement of greater competition and thereby economic integration and growth, benefiting both companies and consumers. Evaluations have shown that the Internal Market has had a favourable impact on competition and a reinvigorating effect on trade and industry. The companies’ ‘domestic markets’ have grown larger and both actual and potential competition have increased in many markets. From a consumer viewpoint, the Internal Market represents a wider range of goods and services, greater freedom of choice and lower prices. Even if prices in relation to other countries are still high in Sweden, they have been forced down in recent years.

In some respects, however, expectations have not yet been fulfilled. One problem is the risk of third-country imports being screened off and parallel import opportunities being negatively affected. The sectors concerned include foodstuffs, textiles, alcoholic beverages and pharmaceuticals. Cross-border public procurement, which was supposed to engender competition between undertakings in the Member States when public players made purchases, does not seem to have worked satisfactorily. Only 3 per cent of contracts in Sweden today involve foreign entrepreneurs.

Sluggishness of one kind or another has meant that in certain sectors the Swedish market remains largely a national rather than a European market. National preferences with regard to taste and product design do of course hamper mobility between the Member States, not only in the case of Sweden. Many service markets are local in character. But there are also obstacles which unnecessarily shield the Swedish market from competition from other EU countries. Standardization is proceeding slowly, for instance in the field of construction materials, which means that products from other countries cannot be used in our country without costly adaptation to Swedish standards. Entry barriers are high in some areas and a high degree of concentration, sometimes in conjunction with considerable vertical integration, can make it difficult for companies and products alike to break into the Swedish market. Regulations of various kinds can be applied in such a way that domestic companies in practice enjoy decisive competitive advantages.

**Exposure to competition**

In Sweden, a number of markets were opened to competition during the 1990s and in several instances regulatory reform has gone faster and further than in other EU countries. Some deregulations date further back in time but remain of considerable significance for growth and dynamic development. These include the abolition of fixed opening hours in shops and the phasing out of the currency and capital market regulations. Major sectors that were opened to competition in the 1990s through the phasing out of public monopolies or changes in anti-competitive regulations included the postal service, telecommunications, domestic air transport, rail transport, electricity supply and taxi services.

In general, the advantages to the consumer of regulatory reform and competition exposure in various markets outweigh the disadvantages – benefits include a wider range and greater access, new products and new public and private services, and pressure on prices. One of the results has been lower prices in the electricity supply and telecommunications sectors.

The deregulation process has not however been problem-free. The altered market conditions have created fresh difficulties. In the public consciousness, too, the particular problems that have arisen may sometimes have overshadowed the general benefits to the consumer that the reform has involved. Problems have included various points of order, which suggests the need for a stable set of rules from which to proceed when opening markets to free establishment and free pricing. Other problems concern consumer information and how consumers are to find their way among the various alternatives on a market where they have not previously been accustomed to make critical choices.
As regards market structure, a common feature of many newly-liberalized markets is a situation where a previous monopolist continues to hold a highly dominant position and is thus in a position to prevent new competitors from gaining a foothold. Business practices that lock in the consumers are among the methods used. Sometimes, this kind of dominance is reinforced through the largest company exercising control of the infrastructure that its competitors must have access to for their operations.

In the case of most of the markets that have been opened to competition, the number of rules has tended to increase rather than diminish. New rules have been deemed necessary to ensure effective competition. Thus the situation might better be described as a transition from unregulated monopoly to regulated competition. Regulation revision, regulatory reform or exposure to competition, therefore, would be a better way to describe these measures.

**Competition legislation**

The Competition Commission viewed the introduction of more stringent legislation as one of the most urgent prerequisites, perhaps the most urgent of all, for increasing competitive pressure in the Swedish economy. The law that ensued, the Competition Act of 1993, incorporates stricter legislation and is based entirely on the principle of prohibition. In material terms, the prohibition provisions closely resemble the competition rules set out in the EC Treaty. A year before the law took effect, the Swedish Competition Authority was founded, with application of the Competition Act as one of its prime tasks.

Application of the Act has since 1993 brought to an end a number of harmful anti-competitive practices. As a proportion of the total number of cases, it may be felt that cases in this category have been few. On the other hand, negative decisions are not of course an end in themselves – if the legal criteria for a certain practice accord with the competition rules, it is the Competition Authority’s duty to confirm this. Clear-cut competition law combined with a body of precedents clarifying the rules helps to establish a code of practice. The large proportion of positive rulings may thus be interpreted as evidence that companies on application have already adapted their practices to comply with existing competition rules.

As regards acquisition control, in most cases the company concerned has modified its arrangement of the acquisition in such a way that the Competition Authority no longer feels called upon to demand a prohibition.

In quantitative terms, application of the new competition law during the 1990s may be said to have focused more on the use of explanatory rulings to spread awareness of what the legislation involved than on tracking down and eliminating harmful anti-competitive practices. In part this has been a deliberate choice of priority. The existence and wording of the law have undoubtedly been of considerable importance for the way in which companies have acted in the market, although it is difficult to show to what extent this is the case. At the same time there are clear indications that in some business sectors the kind of fundamentally competition-oriented approach implied in the new law is lacking.

Public services demand proper supply on a large scale. Purchases of goods and services by central, regional and local government amount to an estimated SEK 4,000 million a year. Effective procurement, therefore, is of considerable import to the economy. The Public Procurement Act plays a vital role for competition in the Swedish market. The assessment of the present report is that the potential savings implicit in the public procurement rules have yet to be fully turned to account.

**Consumption patterns**

Household consumption patterns affect competition in various ways. Overall, the structure of Swedish consumption in terms of goods and services is fairly stable. What is changing are consumption trends in certain individual markets. A notable feature of the 1990s were the attempts by companies to create purchasing loyalty by such means as customer cards, bonus systems and private brands.

Besides what is actually purchased, the manner of the purchase is of major importance. Over the past two decades, the focus of retail trading has been on the growth store. The classic department stores have all but disappeared while the hypermarkets have
strengthened their position. The number of service and traffic shops increased dramatically in the 1970s and 1980s but has since stabilized. The trend towards bigger stores has been evident throughout the retail trade. Outlet sales, which originated with the retailing of parallel import goods, do put pressure on prices but involve comparatively small volumes. A precondition for the structural development of the retail trade is the free choice of business hours, which has led, inter alia, to the establishment of low-price alternatives.

IT and the Internet have generated an information and communication revolution and must on the whole be viewed as beneficial for competition. Although development in this area is still in its infancy, it is true to say that success factors in Sweden in respect of the new technology include the high rate of household access to the Net and the relatively strong position of Swedish companies with regard to business development in this sphere. The new technology cuts through all the old trading patterns, industries and sectors and makes possible a completely new form of business development. New trading sectors, new business approaches, new products, new services, etc, are emerging, and Swedish companies are often in the front line from a global viewpoint. Cross-sector operations are becoming increasingly common and are often due to things like a company offering to look after a customer’s entire range of needs in a certain market segment. To take one example – having originally traded in electricity supply, a company may offer heating facilities and then branch out into indoor climate management.

This development must be deemed to enhance the position of consumers through increased diversity, greater access and price squeezing. According to a US study, IT usage has helped to reduce inflation by 0.5 percentage units a year during the 1991-97 period.

**Concentration**

Even if competition has increased in various trade sectors as a result of EU membership, rule reform and technological advances, a number of sectors are still characterized by both restricted competition and high concentration just as they were at the beginning of the 1990s. This tendency could be said to have grown over the past ten years. In many sectors, the four largest companies account for at least 80 per cent of total domestic turnover. Some sectors have only one seller, in other words a monopoly situation prevails. Among the explanations for such a concentration are acquisitions, dominance by a previous monopolist when a market is exposed to competition, and public regulations. Although there may be a fairly large number of companies in a given sector, many of these tend to be so small that they have only a very marginal share of the market.

**Competitive shortcomings – the need for action**

**Overall assessment of the competitive situation**

The Swedish Competition Authority’s assessment of how competition worked in various areas at the end of the decade, and what obstacles to effective competition still exist, serves as the basis for the various proposals submitted in the present report, of which the most important are listed below.

The Swedish Competition Authority’s analysis has focused on eight priority areas deemed relevant for 1999.
As the table shows, the overall scenario as regards competition on the Swedish market is that the obstacles to it in significant areas are many and extensive. At the same time, competition has undoubtedly improved during the decade, at least in certain respects and in certain sectors.
In the 1990s, the conditions for competition and the basic prerequisites for market performance altered in important respects. There is nothing to suggest that the coming decade will prove more stable. On the contrary, the basic material assembled by the Swedish Competition Authority for the purpose of the present inquiry shows without question that significantly more intensive and profound changes lie ahead, due among other things to changes in the global economy. Also, by international standards, Sweden is in many ways at the forefront of developments, for instance as regards exposing previous monopoly markets to competition, and also as regards IT-related production and Internet usage and the development of new financial markets such as unit trust savings. Nevertheless, it must be said that serious competitive problems persist and that new ones have appeared.

In the view of the Swedish Competition Authority, further measures should be taken to ensure that the rightful demands of the consumer for effective market competition are met. Some of the most important measures proposed by the Authority are commented on below:

**Strengthened competition legislation**
Although EU membership, regulatory reform and technological advancement have boosted competition, there is a high degree of concentration in certain trade sectors. There are firm signs that structural change and concentration in the Swedish market will continue. This development involves certain risks from a competitive viewpoint and effective ways must be found of counteracting harmful restrictions on competition. The Swedish Competition Authority therefore proposes constitutional amendments whereby

- The Competition Act is rendered universally applicable in all trade sectors, a proposal affecting the media, the forest and timber trade and the retail trade
- provisions are introduced that will make it possible to actively resist monopoly.

**Combating cartels more effectively**
From a consumer viewpoint, competition is basically about the purchaser being able to choose between different alternatives and about the individual consumer’s needs and preferences having a significant effect on production and distribution.

In any market, it is always in the interests of a company to drive out competitors and preferably rule alone. Cartels and monopoly power mean companies make a profit at the consumers’ expense. Cartel cooperation is a form of economic crime that closely resembles tax crime and should therefore be fought.

Certain circumstances increase the likelihood of cartel cooperation in a particular trade sector, among them a high degree of concentration, falling demand, standardized products, extensive trade cooperation and little competition from imports. There is a strong tradition of trade cooperation in our country, and in certain areas of trade and industry there would seem to be a pronounced lack of a competition-oriented attitude.

Serious restrictions on competition do not show themselves of their own accord - a major effort is required to expose them. In the view of the Swedish Competition Authority, the legal instruments available hitherto have been too feeble to allow it to actively track down and combat secret and forbidden restrictions on competition. The Authority therefore proposes the introduction of stricter legislation whereby

- serious infringements of the Competition Act are criminalized
- anyone providing information about cartels may escape having to pay an administrative fine or have the fine reduced
- the confidentiality of anyone divulging information about cartels is better protected
- it becomes possible to exchange confidential information with competition authorities abroad
- legislative rules are contemplated prohibiting joint board representation in competing companies (interlocking directorates).
Further regulatory reform proposals

Experience from reformed markets has shown that it is necessary to continuously analyse the various threats to effective competition in such areas. The Swedish Competition Authority has noted that none of the markets in Sweden that previously took the form of a public monopoly have yet reached a situation involving balanced competition between players of roughly equal strength. To boost competition on markets that have been opened to it, the Swedish Competition Authority proposes that

- the infrastructure be separated from previous monopoly operations
- agreements unduly tying consumers to a specific supplier be prohibited
- consumer information on prices and the content of services be improved.

One way of increasing competitive pressure in our country is to remove the remaining barriers between the Swedish market and the rest of the EU market as far as possible. Standardization efforts should be stepped up and the difficulties faced by European companies wishing to establish themselves in Sweden should be identified and addressed. Safeguarding equal opportunities for European companies in the Swedish public procurement process is an important task. Swedish participation in the European Monetary Union would boost price transparency and thus increase the consumers’ chances of being able to weigh different purchasing alternatives against one another, especially given the rapid growth in Internet trading.

Another way of stepping up competitive pressure is to make it easier for companies to establish themselves on the market, and for small companies to grow into medium-sized companies able to challenge established structures in trade and industry. The restrictions on establishing new shops and stores contained in the Planning and Building Act should be removed. In its report, the Swedish Competition Authority has made special note of a number of factors that are causing difficulties for smaller-sized companies in particular.

Fairer playing rules between private and public players

In the 1990s, local authorities, county councils and government agencies increasingly began operating on a commercial basis in markets exposed to competition. The Swedish Competition Authority has received numerous complaints from small companies who feel they have been negatively affected by this development. The operations concerned include construction, building repair and maintenance, meals services, cleaning, laundry services, transportation, the sale of medical articles, industrial health services and education and training.

The Swedish Competition Authority considers that the rules of the game for the players involved in these markets should be expressed more clearly. This can be achieved both by means of better legislative provision for intervening against such restrictions on competition and by making it easier for courts to examine the right of a local authority to operate on a market exposed to competition.

Strengthening the consumer’s position

A wide range of goods and services, of good quality and at reasonable price, as well as information enabling consumers to make proper choices are all eminently reasonable consumer demands.

The statistics show that Sweden is still a high-price country in the EU, even if our relative position has improved to some degree. This applies both to the general price level and to a large number of sub-sectors. In the case of some other EU countries, high price levels are attributed to a high GNP per capita. This is not the case for Sweden, which has descended from what was once a favourable position to a below-average placing in the EU’s ‘welfare table’. Even if the high price level in Sweden for various goods and services can largely be explained by tax differences, there are clear indications that prices are high due to a lack of competition and to market inefficiency. The Swedish Competition Authority would therefore recommend a closer analysis of prices as a matter of urgency.

Consumers are finding their role more and more complicated. This may be due to technological advances, greater freedom of choice, intermixture of trade sectors and complicated terms of agreement, not to mention lack of time. Under these circumstances, the competition and consumer spheres should cooperate and coordinate their activities more closely. They do after all have a common goal – greater consumer benefit and welfare.