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Are Mergers or Acquisitions expected to Affect Customer and Supplier Relationships?

An Analysis of Decisions Taken by a Competitive Authority

Studies concerning corporate mergers and acquisitions are mainly focused on the merging companies. Recently though, there has been an increased interest concerning connected companies, e.g. those firms having customer, supplier or other business relationships with participants in a merger or acquisition. In many countries, there is a legal prerequisite to report intended business concentration to the national competition authority for investigation. This paper investigates decisions made by a competition authority and in addition looks at studies where connected companies are mentioned by the authorities in such decisions. In very few of the investigated decisions, 2.4%, is a third party identified. Our conclusion is that customers and suppliers, if at all effected, are seen as reactive rather than active partners in a concentration. And, the concept supplier or customer relationship is not used.

Mergers and acquisitions (M&As) continue to be a very popular strategic alternative for corporate growth and/or diversification. However, effects on companies connected with the merging firms, such as customers and suppliers are very rarely reported on.

Literature so far has concentrated on the two merging companies and their integration, in terms of the strategic and organisational fit, and synergies (Chatterjee 1992; Datta 1991), and on the process, e.g. pre-merger negotiations, acquisition behaviour, post-merger integration, and post-merger performance (Hunt 1990; Lindvall 1991; Nupponen 1996; Shrivastava 1986;

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Walsh 1989). In addition, it is often concluded that expected gains from a takeover seldom materialise and that most mergers and acquisitions fall short of expectations (Chatterjee 1992; Hunt 1990; Lubatkin 1983). In our view, this focus fails to recognise the interdependence between a firm and its environment and is therefore too narrow. In order to provide new understanding of the phenomenon of M&A, we focus on the external exchange relationships of the merging companies.

The following case can serve as an introduction to the proposed focus in our study. The Swedish Competition Authority wanted to ban the Optiroc Group AB's acquisition of Stråbruken AB in 1997 on the premise that Optiroc would gain a possible dominant position on the market. However, in both the District Court of Stockholm and the Market Court, the acquisition was approved (July 1998). Optiroc is a producer of building materials such as cement, concrete products, mortar products and plasterboards. Stråbruken produced plaster products, concrete, mortar and bricks. The acquirer argued that the establishment of new building materials merchants would increase competition from imported products. Both Swedish corporations had substantial market shares on their respective product markets. (Konkurrensverket 2001 and Annual Report 2001)

The effects of this acquisition were studied in a special report made on the initiative of the Swedish Competition Authority. The report states that the number of competitors had decreased and that Optiroc through the acquisition had strengthened its dominant position. In its announcement of the acquisition, Optiroc claimed that the acquisition would lead to increased imports of products, an effect that was not realised. In the alleged internationalisation, no new actors had entered the market through the establishment of foreign building materials merchants. Moreover, the report stated that Optiroc had further strengthened its position on the national market through additional distribution channels.² The number of bricks produced in Sweden had also decreased (note that Optiroc had no production facilities left, although this was an important reason for the acquisition – restructuring possibilities in the production of bricks). No co-ordination effects in the production of bricks were evident, since Optiroc have sold this business. However there were co-ordination effects for Optiroc concerning product development, transport and distribution. (Konkurrensverket, 2001) According to the report, price development had neither been higher nor lower (as an effect of the alleged rationalisations) than for other building materials. The

² One explanation for this might be that the type of products is rather heavy with low economic value, therefore transport cost is an import barrier. Sweden is a small market and differences in standards could also be an explanation.

concentration in some market segments and distribution channels had decreased as a result of the reduced number of suppliers.

“...the study shows that competition was negatively affected in the retailing chain through a reduction in the number of suppliers. Consumers thus have less freedom of choice.”

Annual Report, 2001, p. 17

This meant that customers buying from the same merchants as previously had fewer options, which could be considered as a negative effect. (Konkurrensverket 2001)

We propose in line with Anderson, Havila & Salmi (2001) that an acquisition or merger influences and is influenced by, not only the two merging companies, but also their supplier and customer relationships. We argue that it is of considerable interest to study the effects that mergers and acquisitions have on customer and supplier relationships. *The purpose of this paper is to show how such relationships are dealt with when competitive authorities investigate/evaluate mergers and acquisitions.*

Background and related literature

The need for anti-competitive controls

Economic theory relies on some basic characteristics of a market and competition: there are many buyers, who all have the same access to information, there are homogeneous products and the prices are the result of output and demand volumes. In addition, it is assumed that the sellers are many or very many. If these circumstances prevail there will be perfect competition, which in turn is a ‘guarantee’ for efficient use of resources, leading to achievement of the best value and lowest price for consumers. Any type of co-operation or agreement among the sellers concerning price or exclusivity in market output, such as a spatial division of the market among the sellers, is believed to lead to higher prices and less variation of products for the consumers. These principles are of fundamental importance to a market society.

In empirical studies of markets several interesting deviations from the economic principles have been observed. First, in the so-called Market Structure literature (Bain 1959, Chandler 1962; Porter 1991) quite many characteristics of the development of structural elements are noted:

- Seller concentration
- Product differentiation

- ❑ Barriers to entry of new firms
- ❑ Buyer concentration
- ❑ Height of fixed costs
- ❑ Growth rate of market demand

All of these characteristics can be seen quite early in any development of an industry. And most mature industries are in fact in a state of a very advanced development of market structure with high seller concentration, high product differentiation, high barriers to entry, buyer concentration, high fixed costs and low growth rate of demand. Companies often regard such a state of the market as being in ‘severe’ or ‘hard’ competition. Mergers and acquisitions in such markets are regarded as particularly threatening to the ‘good’ competition that the authorities supervise.

Competition Legislation and the Role of the Authorities

The first competition rules and regulations were developed in the United States around the turn of the twentieth century. Most of the rules and regulations within the area emanate from these anti-trust laws, the so-called 1890 Sherman Antitrust Act (including the Clayton Act of 1914 and Federal Trade Commission Act of 1914). These laws contained rules against monopolies.

Sweden got its first Competition Act in 1925, but it was not until in the 1983 Act where rules to intervene with acquisitions that limit competitiveness were strengthened. (Konkurrensolitik 1998) The present Swedish Competition Act is based on the EC-legislation.

The role of the Swedish Competition Authority is in brief to take action to prevent restriction of competition and to improve competitive conditions for consumer benefit.

”The Competition Authority shall actively counteract harmful restrictions on competition as well as provide guidance on the playing rules for effective competition. The Competition Authority applies the Competition Act [Konkurrenslagen, KL, 1993:20] and Articles 81(1) and 82 of the EC Treaty.”

Annual Report, 2001, p. 12

Applying the competition rules means that the Authority can investigate companies under suspicion for dominant market positions and anti-competitive dealings. Examples of such activities are price agreements, arrangements on discounts and dividing markets among suppliers. When it comes to company concentration the Authority is divided into seven

departments of which two, Competition Law Department 1 and 2, are responsible for applying the regulations on mergers and acquisitions.³ (Annual Report, 2001)

The Swedish Competition laws and regulations

According to the Swedish Competition Act there is corporate concentration when: (i) two or more independent companies merge, or (ii) when one or more natural persons already in control of at least one company, or one or more legal entities, directly or indirectly gains control over one or more companies⁴. Control is normally defined as one party having more than fifty percent of the shareholders' voting rights. However there might be control also when owning less than fifty percent, if the party is the largest shareholder among minority owners. (Konkurrensverket, 2002)

Corporate concentration must be reported to the Swedish Competition Authority if the involved companies together had a turnover of more than 4.000 million SEK during the preceding financial year, and if at least two of the involved companies had a turnover in Sweden during the preceding financial year of more than 100 million SEK per company. If the first criterion is fulfilled but not the second, the Competition Authority can order the involved parties to report the intended company concentration. The EC-treaty runs parallel with Swedish legislation and some of the intended mergers and acquisitions must be reported to the European Commission rather than the national competition authority.⁵

The application & decision making procedure of the Swedish Competition Authority

In each merger/acquisition that fulfils the turnover criteria, the companies must notify the Competition Authority about the merger/acquisition and describe the type of case (merger or acquisition, of all or part of a company), the acquiring and acquired companies and their respective turnover, current ownership and control, along with the economic/personal connections between the companies prior to the merger/acquisition. Information about the

³ The authority has four main areas of activity: Application of the Competition Act accounts for two-thirds of the activities and internal costs. Another area of activity is to propose changes to the rules used in the competition area in order to eliminate hindrances to competition. About one-fifth of the authority's activities and costs derive from this area. The two other areas of activity are dissemination of information concerning competition and competition rules and to contribute and promote research within the field. These two areas account for the remaining one-sixth of the costs of the Swedish Competition Authority. (Annual Report, 2001)

⁴ Of the 450 decisions made between September 1, 1998 and May 13, 2002, 440 concern acquisitions, either takeovers by a legal entity of all or parts of a business, or acquisition of a significant share of another firm's stock. The remaining ten cases are divided among mergers (6) and creation of jointly owned company (4).

⁵ If there is a European community dimension in an intended merger it must be reported to the European Commission. This is the case if: (i) the companies involved have an annual global turnover of more than 5.000 million Euro and if at least two of the involved companies have an annual turnover within the EC exceeding 250 million Euro, or (ii) the involved companies have an annual global turnover exceeding 2.500 million Euro and a turnover exceeding 100 million Euro in at least three member states, and at least two of the involved companies have an annual turnover in at least three member states exceeding 25 million Euro, along with at least two involved companies having an annual global turnover within the EC exceeding 100 million Euro. There is however no EC dimension if each of the companies involved fulfil one or both of the criteria but more than two-thirds of the turnover within EC emanate from one single member state. (Konkurrensverket, 2002)

companies relevant markets must be submitted along with information concerning any side agreements between seller and buyer.

When defining the market the Competition Authority examines two areas, *relevant product market*, and *relevant geographical market*. Two considerations are taken into account about the relevant product market: (i) to what extent the customers consider the products interchangeable (regarding properties, price and area of use), and (ii) different categories of buyers (i.e. wholesalers, retailers or restaurants), if these have different requirements concerning the products packaging, quality etc. The supplier's interchangeability might also be an important factor. When studying the geographical market the Swedish Competition Authority only considers the companies' presence on the Swedish market, and the relevant geographic market refers to whether the company only supplies a limited geographic area of Sweden for each relevant product. The starting point is to try to decide the companies' strength in each market before the acquisition and whether the companies' market strengths will be increased by the acquisition.

A more thorough investigation of the applicant companies' markets is made if at least two of the involved companies are active on the same product market (horizontal integration) and their combined market share amounts to at least 20 percent, or if the acquisition/merger involves a vertical integration and the market share on a single product market is at least 30 percent. In case the market shares exceed the above (20 and 30 percent, respectively), further details must be given on: the estimated total market in sales value and volume for each relevant market, the companies' as well as their largest competitors' sales and market shares, and import. Existing distribution and service organisations (network) must be stated along with the degree of vertical integration. The companies should also report which their largest independent suppliers and customers are, the market structure for supply and demand, entrance barriers, how research and development affect competition in the long run, co-operation agreements, trade associations etc. The information on the market structure for supply and demand should contain details about the maturity of the market, customer preferences, if the customer structure is concentrated and only consists of a few but large customers, or if it is diversified with many small customers, etc.

The purpose of reporting mergers and acquisitions is to prevent a single company from creating or increasing a dominant market position, thereby significantly reducing or eliminating effective competition within a market. According to the preparatory work to the Competition Law, a dominant market position is defined as follows:

“A dominant position has by the European Court of Justice been described as a strong financial position within a company making it possible for it to hinder effective competition within a relevant market by allowing it, to a considerable extent, to act independent from its competitors and at last the consumers”.

Preparatory Report to the Competition Law
(prop. 1992/93:56,p.85)

One of the essential matters when assessing whether a dominant position is created is the company's total market share, and the Competition Authority mainly focuses on this parameter. According to EC-practice, a market share of up to 30 percent is generally not considered a dominant position. Market shares of between 30 and 40 percent are considered to be a risk for dominant position. A market share of between 40 and 50 percent can be an obvious indication of a company dominating its market and if the market share is above 65 percent dominance is most certainly the case.

Apart from the companies' market shares, other parameters such as financial strength, entrance barriers, actual and potential competition in and outside Sweden, competitors' market shares, market structure, options of the suppliers and consumers, and their access to deliveries and markets, development of supply and demand, access to raw material, patent- and immaterial rights and technological or knowledge based superiority are important when investigating the presence of a dominant position. From a total assessment of the market situation the Competition Authority estimates whether the level of competition is sufficient to uphold an effective competition after the merger/acquisition has been realised.

The investigations performed by the Competition Authority are mainly conducted on the basis of information given in the notification documents and sometimes by acquiring supplementary information from the companies involved. In a few cases, the Competition Authority also conducts completing studies by direct contacts or questionnaires aimed at a third party (customers, suppliers, etc).

After estimating if a dominant position is at hand, the Swedish Competition Authority can choose to let the acquisition pass without action or move to ban the acquisition at the District Court of Stockholm. One way for the involved companies to find a compromise is voluntary undertakings (such as disposing a part of a business or imposing a time limit on exclusivity agreements) so as to assure the Competition Authority that appropriate measures to promote competition have been taken and that further action and/or bans are unnecessary.

Almost all reported mergers and acquisitions are approved (more than 90 percent within one month, i.e. no further investigations are deemed necessary). The European Commission has a positive view on mergers and acquisitions. It is believed that increased competition is a prerequisite for increased growth and new businesses and that it promotes good conditions for long lasting for employment possibilities. The European Commission holds the opinion that short-term negative effects of lost employment opportunities are outweighed by these long term effects. (Europas konkurrenspolitik och medborgarna 2000).

On the importance of customer and supplier relationships

Based on empirical findings, it is shown (read IMP) that market development can be characterised as consisting of a majority of heterogeneous product offers. This is so particularly in business-to-business situations where components or technical systems are most often developed in interaction between suppliers and producers, or between buyers and producers. In fact, studies of the European engineering industry already in the 1970's and 1980's presented quite overwhelming evidence of the existence of exchange relationships in markets forming dynamic market structures, later called industrial networks. (Forsgren 1989; Mattsson 1996; Håkansson, ed. 1982). The so-called industrial network approach has since then been developed quite extensively in terms of how such empirical networks can be described (e. g. Lundgren 1993; Hertz 1998) and work (e. g. Havila 1996).

Our theoretical point of departure is the following. We have observed that there are indeed buyer-and-seller interaction relationships that bind companies together. Around every company in a network there are quite easily identified important suppliers with whom the company has had exchange relations for some time. This is so also for the customer side. In these relationships a lot of information and knowledge is transferred and developed, decisions are made, risks are taken, negotiations are performed, technological development is ongoing and so forth. Most of these findings are well known to the IMP community and will not be presented here.

In addition we have also observed that there are mergers and acquisitions between companies in business networks. The number of reported mergers and acquisitions in Sweden in the studied period is 450⁶. In the 450 mergers and acquisitions, at least two companies per acquisition are involved, i.e. a minimum of 900 companies. Håkansson (1994) found that the 10 largest customers and suppliers accounted for about 70 percent of products purchased and sold. With the 900 merging/acquiring/acquired companies this would in sum mean an amount

⁶ The figures do not include decisions made by the European Commission.

of at least 18.000 important company relationships, possibly affected by the M&A activities. This is only the first tier, and then one can consider the second and third tiers i.e. customer's customers and supplier's suppliers.

Research questions

The overriding question in our study is to what extent does the merger or the acquisition affect the customers and the suppliers of the merging, acquiring or acquired companies. And, if so, to what extent are the legislation and the authorities taking this into account? Is it so that the existing legislation and its effects also cover the importance of what happens in exchange relationships between companies? Or, is the reality that of business networks, not at all covered by the legislation? To what extent does that interfere with business activities in the market? In this paper we have limited our analysis to the following questions in the go/no-go decisions made by the Competition Authority to a merger or an acquisition:

1. To *what extent* are effects on customers and suppliers taken into account?
2. *How* are effects on customers and suppliers taken into account?

Method

This paper is based on decisions made by the Swedish Competition Authority. We have studied all mergers and acquisitions reported to Swedish Competition Authority between September 1, 1998 and May 13, 2002, where the Swedish Competition Authority have come to a decision to approve or disapprove the proposed merger/acquisition. All the 450 decisions made during this period of time, along with the underlying decision motives, have been read to find out if customers and/or suppliers are mentioned. Concluded from this review of decisions is that customers, suppliers and/or competitors, are referred to in only eleven out of the 450 cases studied. Since no references to customers or other third parties of the companies are made in the remaining 439 cases, these are excluded from our further analysis. However, these cases could be viewed as important evidence on the Authority's having extensively neglected third party effects. The eleven cases where third parties are mentioned are investigated further to find out how the relationships to customers and/or suppliers are dealt with. This step included a full review of all the documents, questionnaires, etc collected by the Swedish Competition Authority. Thus, in the first part the report of the proceedings from the Authority has been used as data. In the second part we have used the data collected by the Authority on which it based its decisions.

In the second part, the documents were investigated as to find out: (i) which parties have been asked, (ii) what information and/or opinions are asked for, (iii) how do the respondents look upon the different mergers/acquisitions, and (iv) to what extent have the answers given affected the decisions made by the Authority, i.e. are the opinions given by customers, suppliers and/or competitors viewed as central or peripheral when the Authority reaches its decisions? From this review our intention is not so much to answer which implications are made by whom in the different cases, as to investigate which attention is given to customers and suppliers when the Competition Authority decides to approve or disapprove a merger or an acquisition. Though to make the decisions understandable, in the result and analysis section the cases are presented one at a time.

Result

Of the 450 decisions made in the studied period, it can be concluded that investigations regarding third parties have been made in eleven cases⁷. Third party (possible effects) is thus identified in 11/450 = 2.4% of the cases. The distribution of the third parties identified can be seen in Table 1.

TABLE 1
Investigations about Third Parties

No third party (effects) identified	Third party (possible effects) identified			
	Customers only	Competitors only	Competitors + Customers	Competitors + Customers + Suppliers
439	1	1	7	2

The reasons for turning to a third party are according to Eliasson, Counsellor at the Swedish Competition Authority:

- Lack of knowledge of the affected market. This reason initially led to many investigations in order to build a "Knowledge Bank".

⁷ See Appendix 1 for further information about the cases.

- The acquisition is of such nature that there is a great risk of the merger/acquisition resulting in creation of a dominant market position. In these cases knowledge must be collected in order to move for a possible ban at the District Court of Stockholm.

Common to the eleven cases where a third party was contacted, are that the acquiring and the acquired companies were at least partially active on the same product market or vertically interrelated markets. In seven of the cases the companies' jointed market shares would reach beyond 65 percent after the merger/acquisition. In three of the remaining cases the size of the companies' market shares depended on which measuring method to choose/how to define the geographical market. In the last case, where a vertical integration with a market share of about 50 percent on one single market was imminent, the case was further complicated by two minority owners of the acquired company also being customers to the company.

Information compiled by the authority

The questionnaires/interviews/telephone contacts mainly focused on the following⁸:

- Background data for the responding company: Its size, turnover, ownership etc, as well as its areas of business and on which markets the company acts.
- Collecting views on/verifying definitions of relevant product markets and/or definitions of relevant geographical markets, as well as opinions on appropriate procedure for measuring market shares.
- Competitive factors, either addressed as an open question about what competitive factor is considered most essential, or as a matter of choosing which of price, quality, trade mark, full range assortment, proximity to manufacturer, service level, is considered to have the highest impact on what supplier to choose. From the customers' point of view, these questions are asked in terms of price sensitivity, customer preferences and brand loyalty.
- Potential competition, for instance regarding to what extent the customers can buy imported products or start their own manufacture of the product.
- Suppliers and their share of the companies' buying, as well as alternative suppliers and supplementary products. How prices are set and whether any company is the price-leader or is estimated to become a price-leader. Possible buying agreements and their expiry dates. The importance of internal supply (i.e. the importance of vertical integration) to the size of the market shares.

⁸ In four of the eleven cases the investigations were restricted to telephone contacts/interviews with customers, importers, competitors and/or trade associations, whereas in the other cases questionnaires were sent out to competitors/potential competitors, trade associations, customers and/or suppliers.

- Attitude towards imported goods; how interchangeable they are with other Swedish products, and if there are any price differences between domestically produced and imported goods.
- Market concentration and if the market structure has changed during the last five to ten years regarding new operators, market strength etc. as well as if and how the market situation is estimated to change as a consequence of the acquisition/merger. An estimation of the acquired/merged companies' market shares after the acquisition/merger and if the acquisition/merger implies the creation of a buying-power able to act independently from its suppliers.
- Effects of the acquisition on the customers' buying, the total market or any related markets. In one case the questions about effects were specified to having the respondents consider effects in terms of higher prices or other unreasonable buying terms and how the negotiating positions would be affected.

Common to the questionnaires and the telephone contacts/interviews were that there were two types of tasks: *gathering data* and *collecting opinions/views*.

Data on market shares, product interchangeability, etc. were primarily needed to confirm or reject the information left by the applicant companies in their notification and to form a basis of an alternative grouping of relevant markets. The core problem seemed to be to ascertain whether a dominant position was created or not, where besides the applicant companies' market shares, the competitors' market shares, size of the customers, whether imports could be viewed as a source of competition or not etc., were taken into consideration. As for the collecting of opinions/views, we will look more deeply into what the customers and suppliers answered in the following section.

Customer and supplier opinions on effects and the consideration from the authority to these opinions

As a complement to the data gathered from customers, competitors and suppliers in the questionnaires/telephone contacts etc., in eight cases third party/parties were also given the opportunity to express their opinion concerning expected effects of the acquisition/merger. We should point out that any reference to third parties were only made in eleven of the 450 cases, and that in these eleven cases three of them were only referred to with respect to the division of markets etc. In case the third parties gave an opinion on the acquisition/merger they mentioned positive as well as negative effects.

Also important to note is to what extent have objections from customers/suppliers been considered and in turn affected the decisions of the Competition Authority? In seven of the eleven investigated cases the acquiring/merged companies made some kind of undertaking in connection to the acquisition. These undertakings were prerequisites for the Swedish Competition Authority agreeing to the merger or acquisition. Common to the cases where undertakings were made was that the Competition Authority believed that a dominant position would appear as a consequence of the acquisition/merger concerning market shares etc. for at least one of the company's products. In those cases where the company already had substantial market shares, this was not considered as long as the market share did not increase because of the acquisition/merger. In all of the cases the acquisitions/mergers were able to proceed without any action taken by the Competition Authority after the applicants agreed to the undertakings. The effects mentioned and the undertakings agreed to are compiled in the case descriptions below. Table 2 summarises the acquisitions made and the major effects mentioned in the case studies as well as the undertakings agreed upon.

- In Solvest's acquisition of Saba Trading (731/1998), a vertical forward integration in the fruit industry, attention was drawn to the risk that the acquiring company to an increasing extent only would provide products to the acquired company. It was however also pointed out that both parties would still be doing business with other parties. The complication was that the two minority owners in the company where Solvest Ltd became the majority owner were customers of the acquired company. These companies agreed to continue to conduct their buying based solely on businesslike conditions and not let their ownership relations affect the buying. In this case it was not the acquiring or acquired companies who undertook corrective action; it was the minority owners.
- In Slakteriförbundet's acquisition (591/1998) of a number of local actors in the meat and slaughter industry etc., the concentration enabled the company to add more resources to product development. According to customers who formerly bought products locally, the concentration would lead to a more reliable access to products, and customers who previously did business with several of the involved companies believed that purchasing and campaigns would be simplified. However, it was also stated that there was a risk of a lower degree of freedom for the customers and a decreased price competition, since prior to the acquisition it was possible to turn to an actor in another district. It was also pointed out that there was a risk of a more limited choice in products and that the company through its vertical integration primarily would favour its own businesses in case of scarce supply. Small customers and primarily local companies stated that they would be very

dependent on the new company as a supplier. Seen from an import/export perspective, it was however considered positive that a strong Swedish operator would be created. A number of voluntary actions were undertaken including treating external industrial customers in a businesslike manner and not discriminating smaller industrial customers regarding price level. On request from the Competition Authority the company agreed to present its prices and terms to individual external clients. In case of disturbed imports, the company would continue to deliver to external customers in amounts relative to their previous business. Finally it was also agreed not to allow representatives from competing companies serve on the board of the new corporate constellation.

- In the case where Orkla Foods acquired KåKå (221/1999), both companies active in the markets for almond paste and marzipan, customers believed that a monopoly would be created in the Swedish market. However large customers pointed to the possibility of importing or starting their own manufacturing in case the acquisition resulted in impaired market conditions. As the raw materials (sugar and almond) are sold at a world market price, unreasonable price increases could easily be spotted. For small customers however, the options were considered less limited. It was concluded that large customers had alternatives, whereas smaller customers had limited options. This led to voluntary undertaking on the part of the acquiring company to ensure that smaller customers did not receive conditions inferior to those of larger customers.
- In the case where Stena Line acquired Scandlines (866/1999), both active in the ferry transportation industry, the customers feared raised prices and bottlenecks in traffic due to less frequent departures resulting from the strengthening of a strong position held by the acquiring company. Other customers thought that the acquisition would result in more frequent departures and would entail an increased possibility for international competition. It was also pointed out that the small customers as well as consumers would be those most negatively affected by increased prices.
- Arla merged with MD Foods (918/1999), both active in the dairy industry, but predominantly acting on different geographical markets (Sweden and Denmark, respectively), and it was stated that while the merger would benefit consumers by increased product development and by forcing competitors to act tougher in the market thus driving it forward, it would also make it harder for new supplier and new products to enter the market. Previous to the merger, other Swedish dairies had introduced their products through Arla, but this was believed to become less probable after the merger. An increased opportunity for the Scandinavian dairy industry in an international perspective

was described to influence suppliers as well as competitors in a positive way. Some suppliers (i.e. other dairies) held that an export venture could widen their geographical market, but as competitors they would have an opportunity to niche themselves as a Swedish alternative and that some end-consumers might make an active choice to shop from small companies. It was also pointed out that a smaller number of suppliers would restrict flexibility.

- In Carlsberg's acquisition of Pripps Ringnes (615/2000), both in the beverage industry, references were made to increased prices and deteriorated purchase conditions. Other customers pointed to a potential for increased effectiveness that would have a positive impact on prices, but there was also consideration that the benefit of increased efficiency would be absorbed by the acquiring company and would not be passed on. Some customers felt that the loss of one operator would impair the negotiation potential, while other customers stated that the buying process would become more effective with a single supplier who offered a wider assortment and would lead to favourable prices for attractive brands (strong brand names are essential marketing tools in the beverage industry). An alternative strategy was also feared: that the acquiring company would dump prices and drive its competitors off the market. Carlsberg A/S voluntarily undertook to divest a number of own brands that would otherwise have given them a dominant position, to stop distributing other brewery brands and to withdraw from a licensee collaboration. During a defined period of time the company was mandated to not increase its marketing.
- In the case where Svenska Lantmännen (670/2000) merged with a number of local actors in the agricultural business, price increases were feared and customers pointed out that the amalgamated corporations could use vertical integration and market dominance to eliminate or hinder other firms from market activities. This in turn would mean fewer choices and a more static market. The gains of the improved effectiveness were not believed to benefit the customers. The suppliers also saw a risk of the company turning to foreign suppliers. The company created from the merger undertook to license its quality seal to other producers and to assure resellers of future supply of their products in a wide assortment.
- In Cerealia's acquisition of portions of Kvarn AB Juvel (694/2000), both in the milling industry, several customers stated that they did not fear the acquisition and that several had made concrete plans in the event that the acquisition would lead to increased prices. Imports were considered to constitute potential competition. However two supplier agreements were part of the acquisition and through these the company's market share

increased in two product markets. To counteract this, a time limit was imposed on the agreements.

In the cases Scandic's acquisition of Provobis Hotels (467/2000), Svenska Handelsbanken's acquisition of SPP Livförsäkring and SPP Fonder (10/2001) and Vin & Sprit's and Rettig's acquisition of Marli Group (227/2001) questions to the connected companies concerned only how to define the market etc., while opinions about the acquisition were not collected. However a dominant position was reached in two product markets relating to the Vin & Sprit case and the company agreed to stop selling, marketing and distributing certain brands belonging to these product markets.

Analysis

In the cases where inquiries were made concerning the effects of the acquisition/merger on third parties, all answered that they expected some effect on third parties. The question is whether this had any bearing on the decisions made by the Competition Authority. Since all the investigated cases were allowed to proceed with the intended amalgamations on condition of their fulfilling the mandated undertakings, we have investigated the stated aims of the Competition Authority and related documentation, to determine if the Authority investigated possible effects on the connected companies. Who benefits from the undertakings, and how are these related to the effects pointed out by customers and suppliers?

In Solvest's acquisition of Saba Trading, as mentioned earlier, the undertaking concerned two minority owners. The aim of this undertaking was to avoid negative effects for competitors and their sales on the Swedish market.

In Slakteriförbundet's acquisition of a number of local actors, the beneficiaries of the undertakings were external customers (and primary small customer companies). These undertakings seem to be based on customer assumptions that the acquisition would be detrimental to them.

In the case of Orkla Foods acquiring KåKå, the undertakings, was to not create inferior conditions for small customers, all in line with the result of inquiries to connected companies.

In Stena Line's acquisition of Scandlines no undertakings were agreed to, although customers (especially small companies and consumers) reasoned they would be negatively affected and although the risk of an impaired competition was pointed out.

In Arla's merger with MD Foods, some suppliers argued that the merger would make it more difficult for them to launch new products, etc. The Competition Authority however did not see these arguments as reasons to force any undertakings on the merging companies.

In Carlsberg's acquisition of Pripps Ringnes, the undertakings to not increase marketing efforts and to divest brands, could be seen as ways to avoid a dominant position. Customers' opinions were not taken into account in this case.

In the merger with Svenska Lantmännen, making the quality marking available to others could be viewed as a way to keep a sound competition, whereas the assurance of supplies was intended to avoid negative effects on one reseller. Other opinions expressed from the customer side were not considered.

In Cerealia's acquisition, the undertaking was to place a time limit on two supplier agreements, which according to the Competition Authority meant that other actors would be able to compete with Cerealia for market volumes. The beneficiary would thus be the competitors of Cerealia, whereas customers and suppliers were not considered.

In V&S Vin & Sprit's acquisition, customer and/or supplier effects were not asked for, and the undertakings primarily aimed at avoiding a dominant position for V&S.

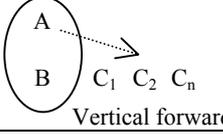
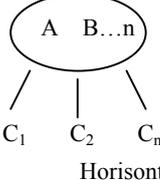
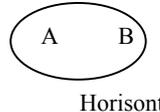
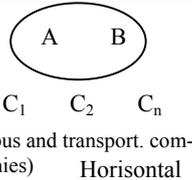
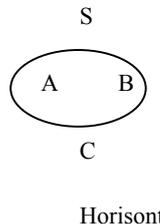
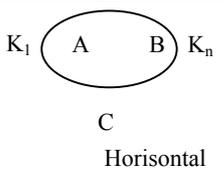
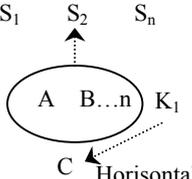
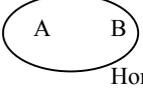
In the two remaining cases, Scandic Hotel and Svenska Handelsbanken, respectively, no effects were asked for and no undertakings were agreed to.

In conclusion, in the cases Solvest, Carlsberg, Svenska Lantmännen, Cerealia and V&S Vin & Sprit undertakings were meant to avoid creating a dominant position for the amalgamated company. Although a sound competition could indirectly benefit customers/supplier market conditions, only in three cases: 221/1999 Orkla Foods AS, 670/2000 Svenska Lantmännen ek för and 591/1998: Slakteriförbundet ek för, did the undertakings focus on the customers. In two of the cases the focus was to prevent negative effects on small customers in the market. The third case 670/2000: Svenska Lantmännen ek för, aimed at upholding a sound competition and ensuring future supply to one customer.

The main focus of the Competition Authority was to examine whether the acquisition/merger would impair competition, but how assumptions were made was pointed to in only a few cases. The effect on the customers was not taken into account in most of the inquiries made and supplier effects are not considered at all. It is only in very few cases that any inquiries are made.

TABLE 2⁹

Presentation of the cases where third parties were addressed

Case	Type of integration	Possible third party effects	Evaluation by the authorities → undertakings	Geographical effects
Solvest Ltd acquired shares in Saba Trading AB	 Vertical forward	<input type="checkbox"/> Risk for limited output of products. (for (C,D,E)= other customers to A)	The two minority owners agreed to purchase under business conditions, and not owner relationships	
Slakteriförbundet ek för acquired Skanek, Scan Farmek, Scan Norrland and Norrmejerier	 Horizontal	<input type="checkbox"/> Reliable access to products <input type="checkbox"/> Simplified purchasing/campaign <input type="checkbox"/> Lower degree of freedom <input type="checkbox"/> Decreased price competition (higher prices) <input type="checkbox"/> Increased supplier dependence	Agreed to not discriminate smaller industrial customers. Agreed to not allow competing companies representatives serve on the board.	Strong Swedish operator
Orkla Foods AS acquired KåKå AB	 Horizontal	<input type="checkbox"/> Monopolisation <input type="checkbox"/> Large customers can react to this by starting own production, small customers cannot.	Acquirer agreed to make sure that small customers were not faced with conditions inferior to those of large customers.	Monopolisation on the Swedish market
Stena Line acquired Scandlines AB	 Horizontal	<input type="checkbox"/> Increased prices <input type="checkbox"/> Lower or higher frequency of departures <input type="checkbox"/> Increased possibility of international competitiveness		Larger operator, increased international competitiveness
Arla ek för and MD Foods merged their businesses	 Horizontal	<input type="checkbox"/> Increased entry barriers: 1) new products via Arla; 2) as a supplier on the Swedish market <input type="checkbox"/> Existing suppliers strengthened through internationalisation <input type="checkbox"/> Customers may perceive extended product variation		Internationalisation Entry barriers on the Swedish market
Carlsberg A/S and Carlsberg Breweries A/S acquired sole control over Pripps Ringnes AB	 Horizontal	<input type="checkbox"/> Increased prices/tougher conditions <input type="checkbox"/> Simplified purchasing process <input type="checkbox"/> Widen assortment <input type="checkbox"/> Favourable prices <input type="checkbox"/> Price dumping leading to damaged competition	Divesting a number of own brands. Stop distributing other brewery brands. Withdraw from collaboration agreements. Not increase marketing for a defined time period.	
Merger of Svenska Lantmännen ek för etc.	 Horizontal	<input type="checkbox"/> Increased prices <input type="checkbox"/> Entry barriers through market dominance <input type="checkbox"/> Suppliers fear losing customers through changed supplier base	Agreed on making a quality marking available for other producers.	
Cerealia AB acquired assets from Kvarn AB Juvel	 Horizontal	<input type="checkbox"/> No fears, however action plans were made in the event of increased prices (customers)	Agreed on a time limit for two supplier agreements.	

⁹ A and B (...n) represents the integrating companies. C represents the customers and S the suppliers. Finally K represents the competitors.

Conclusions

Research question 1

All cases but one considered horizontal mergers or acquisitions. The two most important concepts: relevant product, and relevant geographical market are directly taken into account by all existing and potential customers (and suppliers). There is no doubt that the Competition Authority is trying to evaluate the market structure by the (economic theory) textbook. The data analysis is very extensive and the search for data is on ‘measurable’ concentration data such as market share.

However there is no such thing as an exchange relationships in the evaluation procedure i.e. exchange relationships are not acknowledged as relevant concepts. There seems to be no data search on customer and supplier relationships. In very few cases – less than 3 percent – are any effects on identified related suppliers or customers particularly searched for and investigated.

Research question 2

When customer and supplier relationships are taken into account, effects can be categorised, see Table 3.

TABLE 3
Categorisation of effects

Type of effect	Scale and scope of effect
Market structure	Entry barriers or new competitors entering
Product assortment	Extended or limited
Price	Increased or favourable
Supply	Increased dependence or less complicated
Competitiveness	Increased internationalisation
Purchasing	Rationalisation

In sum we can conclude that customers and suppliers are regarded as reactive not active partners. Customers or suppliers as actively engaged and strategically acting players in the business network are not taken into account at all. The impression we get is finally that customers are most often seen as consumers and therefore business-to-business effects are rarely investigated.

Our final answer to the title question of the paper is thus: **no**.

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Swedish Competition Authority's documentation regarding case 918/1999: The merger of Arla ek för and MD Foods A.M.B.A.

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Swedish Competition Authority's documentation regarding case 615/2000: Carlsberg A/S's and Carlsberg Breweries A/S's acquisition of Pripps Ringnes AB

Swedish Competition Authority's documentation regarding case 670/2000: The merger of Svenska Lantmännen ek för, Svenska Lantmännen Riksförbund ek för, Västerbottens Lantmän ek för, Värmlands Lantmän ek för, Örebro Lantmän ek för, ODAL ek för, Gotlands Lantmän ek för, Jönköpings Lantmän ek för, HBK Lantmän ek för and Skånska Lantmännen ek för to the newly formed Svenska Lantmännen ek för

Swedish Competition Authority's documentation regarding case 694/2000: Cerealía AB's acquisition of assets from Kvarn AB Juvel

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Appendix 1

The investigated cases are:

- 591/1998: Slakteriförbundet ek för acquired businesses and companies from Skanek ek för, Scan Farmek ek för, Scan Norrland ek för and Norrmejerier ek för, leading to amalgamation of slaughterhouses, cut up and cured meat-businesses in one joint company.
- 731/1998: Solvest Ltd, a subsidiary of Dole Food Company, acquired shares in Saba Trading AB and in Axel Johnson Invest AB, whose only assets consisted of shares in Saba Trading AB. The business of the acquiring and the acquired companies were sales and import, and sales to importers of fruit and vegetables. The acquisition resulted in a vertical integration.
- 221/1999 Orkla Foods AS acquired KåKå AB, leading to an increased concentration in the markets for almond paste and marzipan through horizontal integration.
- 866/1999 Stena Line acquired Scandlines AB, both active in ferry services for passengers, cars, trucks, railroad coaches and buses.
- 918/1999 Arla ek för and MD Foods A.M.B.A merged in a new company: Arla Foods A.M.B.A. Both companies are active in the dairy-business and have their primary market in Sweden and Denmark, respectively.
- 467/2000: Scandic Hotels AB acquired sole control over Provobis Hotel & Restauranger AB. The acquiring and acquired companies were in the hotel business and overlap in some cities.
- 615/2000: Carlsberg A/S and Carlsberg Breweries A/S acquired sole control of Pripps Ringnes AB. Both of the merged companies were active in production and distribution of beer, soft drinks and mineral water. Prior to the acquisition Carlsberg was represented on the Swedish market through a subsidiary, Falcon.
- 670/2000 Merger of ten regional cooperatives (ek för) to form one national cooperative: Svenska Lantmännen ek för, Svenska Lantmännen Riksförbund ek för, Västerbottens Lantmän ek för, Värmlands Lantmän ek för , Örebro Lantmän ek för, ODAL ek för, Gotlands Lantmän ek för, Jönköpings Lantmän ek för, HBK Lantmän ek för and Skånska Lantmännen ek för are merged to create Svenska Lantmännen ek för. The business consisted of agricultural products such as grain etc. Prior to the merger the merged companies had acted mainly on a regional basis and competition with one another was limited. The newly formed company acted on a national basis.

- 694/2000: Cerealia AB acquired assets assignable to the milling operation of Kvarn AB Juvel. The acquisition agreement included takeover by Ceralia of Kvarn AB Juvel's production equipment and two major supplier agreements. The investigation made by the Competition Authority indicates that Cerealia's already strong position on the market would be strengthened further.
- 10/2001: Svenska Handelsbanken AB acquired sole control over SPP Livförsäkring AB and SPP Fonder AB. Both companies were active on the life insurance market.
- 227/2001: V&S Vin & Sprit and Oy Rettig AB acquired joint control over Oy Marli Group AB. The acquiring company and the acquired company's affiliate were active in the wine and liquor business.