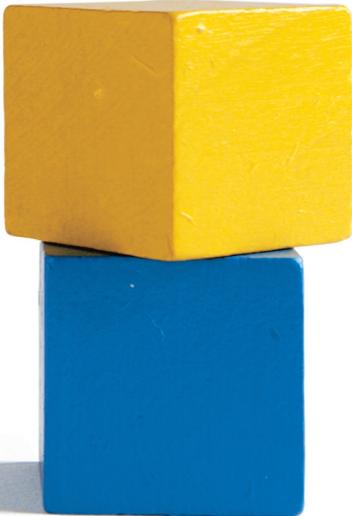


Swedish Competition Act



Swedish Competition Act

The contents of the Act

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Swedish Competition Act (2008:579)

(Only the Swedish version is authentic)

Chapter 1 Introductory provision

The purpose of the Act etc.

Chapter 1 Section 1

The purpose of this Act is to eliminate and counteract obstacles to effective competition as regards the production of and trade in goods, services and other products.

Chapter 1 Section 2

This Act shall not apply to agreements between employers and employees relating to wages and other conditions of employment.

Chapter 1 Section 3

The Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty and the Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings contain provisions that are relevant to the implementation of this Act.

Chapter 1 Section 4

The Government determines which courts and other authorities shall be competition authorities in accordance with the Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 in the Treaty, if this is not stipulated in this Act.

Definitions

Chapter 1 Section 5

For the purposes of this Act an undertaking shall be defined as a natural or legal person engaged in activities of an economic or commercial nature. To the extent that such activities involve the exercise of authority they shall not fall within the scope of this definition.

The term undertaking shall also include associations of undertakings.

Chapter 1 Section 6

The provisions of the Act relating to agreements shall also apply to

1. decisions by an association of undertakings, and
2. concerted practices of undertakings.

Chapter 1 Section 7

In this Act a primary agricultural association is defined as an economic association whose members are individual farmers or other undertakings engaged in agriculture, horticulture or forestry. If associations of such undertakings are members of the association, the latter is, however, only regarded as a primary agricultural association providing that such associations only contain local associations of undertakings operating activities of the kind specified.

The Act (2000:1025) on the meaning of the terms agricultural, horticultural and forestry produce as used in the Competition Act (2008:579) contains special provisions on what is meant by such produce under this Act.

Chapter 1 Section 8

For the purposes of this Act a taxi undertaking is an undertaking providing or carrying out taxi services or comparable transport services.

A central booking service refers to a joint or independent function which receives orders and distributes transport assignments between taxi undertakings. The function can also perform related activities.

Chapter 1 Section 9

According to this Act, a concentration shall be deemed to arise if there is a change to the control of an undertaking of lasting basis as a consequence of:

1. two or more previously independent undertakings merge, or
2. either one or more persons, already controlling at least one undertaking, or one or more undertakings acquire whether by purchase of securities or assets, by contract or by any other means direct or indirect control of the whole or parts of one or more other undertakings.

The creation of a joint venture which on a lasting basis fulfils all the functions of an autonomous economic entity constitutes a concentration within the meaning of the first paragraph, point 2.

Contents of the Act

Chapter 1 Section 10

The Act contains provisions concerning

- anti-competitive co-operation between undertakings (Chapter 2),
- measures against anti-competitive co-operation between undertakings (Chapter 3),
- control of concentrations (Chapter 4),
- investigations of cases (Chapter 5),
- penalty of a fine (Chapter 6),
- appeals (Chapter 7), and
- court proceedings (Chapter 8).

Chapter 2 Prohibited restrictions of competition

Anti-competitive cooperation between undertakings

Chapter 2 Section 1

Agreements between undertakings shall be prohibited if they have as their object or effect, the prevention, restriction or distortion of competition in the market to an appreciable extent, if not otherwise regulated in this act.

This shall apply, in particular, to agreements which

1. directly or indirectly fix purchase or selling prices or any other trading conditions;
2. limit or control production, markets, technical development, or investment;
3. share markets or sources of supply,
4. apply dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage; or
5. make the conclusion of contracts subject to acceptance by the other

parties of supplementary obligations, which by their nature or according to commercial usage have no connection with the subject of such contracts.

Exemptions from the prohibition on anti-competitive cooperation between undertakings

Chapter 2 Section 2

The prohibition in Section 1 does not apply to agreements which

1. contribute to improving the production or distribution or to promoting technical or economic progress;
2. allow consumers a fair share of the resulting benefit,
3. only impose on the undertakings concerned restrictions which are indispensable to the attainment of the objective referred to in paragraph 1, and
4. do not afford such undertakings the possibility of eliminating competition in respect of a substantial part of the utilities in question.

Chapter 2 Section 3

Exemptions from the prohibition in Article 1 shall apply to categories of agreements laid down in

1. Act (2008:580) concerning block exemption on anti-competitive agreements on certain co-operation concerning taxi services,
2. Act (2008:581) concerning block exemption on vertical anti-competitive agreements²,
3. Act (2008:582) concerning block exemptions on anti-competitive specialization agreements²,
4. Act (2008:583) concerning block exemption on anti-competitive agreements concerning research and development,
5. Act (2008:584) concerning block exemption on vertical anti-competitive agreements in the motor vehicle sector, and
6. Act (2008:586) concerning block exemption on anti-competitive technology transfer agreements.

If an individual agreement as a result of a block exemption according to the first paragraph is exempted from the prohibition in Section 1 but has effects which are incompatible with Section 2, the Swedish Competition Authority may determine that the agreement shall not be covered by the block exemption.

Chapter 2 **Section 4**

The prohibition in Section 1 does not apply to those agreements within a primary agricultural association or its subsidiaries that concern co-operation between the members of the association on

1. the production, collection, processing, sale or related activities such as the use of jointly owned facilities, storing, preparation, distribution or marketing of agricultural, horticultural or forestry produce, or
2. the purchase of goods or services for such activity as is referred to in 1.

The first paragraph does not, however, apply to agreements which have as their object or effect

1. the prevention or impairment of free mobility of a member on the market
 - a) with respect to choosing a buyer or a supplier,
 - b) with respect to the possibility of leaving the association, or
 - c) in other respects of equivalent importance, or
2. that selling prices are directly or indirectly fixed for goods when the sale takes place directly between the member and a third party.

Chapter 2 **Section 5**

The prohibition in Section 1 does not apply to a written agreement between taxi undertakings or between a central booking service and taxi undertakings if the agreement

1. concerns joint transport activities through co-operation by means of a central booking service or in other ways for the purpose of achieving efficiency gains or other such financial advantages,
2. is needed to satisfy the public interest in having access to taxi services, and
3. covers a maximum of 40 taxi vehicles.

The exemption under the first paragraph does not apply

1. to the extent that the co-operation concerns practices or conditions which involve or cover
 - a) the setting of joint prices,
 - b) the division of markets,
 - c) a period of notice for participating taxi undertakings which exceeds six months from the date when notice is given, or concerning an economic association, conditions that notice may not be given until six months at the earliest, or a longer period after entry, or
 - d) prohibition against participating taxi undertakings to compete after the expiry of the agreement with joint transport activity, and
2. to the extent that it is evident that the purpose of the joint transport activity or interest in access to taxi services in accordance with the first paragraph, points 1 and 2 can be satisfied without the co-operation covering such practices or conditions as set out in 1.

Nullity

Chapter 2 Section 6

Any agreements or provisions included in agreements that are prohibited under Section 1 shall be void.

Abuse of a dominant position

Chapter 2 Section 7

Any abuse by one or more undertakings of a dominant position on the market shall be prohibited.

Such abuse may, in particular, consist in

1. directly or indirectly imposing unfair purchase or selling prices or other unfair trading conditions,
2. limiting production, markets or technical development to the prejudice of consumers,
3. applying dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage, or
4. making the conclusion of contracts subject to acceptance by the other parties of supplementary obligations, which by their nature or according to commercial usage have no connection with the subject of such contracts.

Chapter 3 Actions against restrictions on competition

Obligation

Chapter 3 Section 1

The Swedish Competition Authority may order an undertaking to terminate an infringement of any of the prohibitions laid down in Chapter 2, Section 1 or 7 or Article 81 or 82 in the Treaty.

An obligation pursuant to first paragraph shall take effect immediately, unless other provision is made.

Chapter 3 Section 2

If the Swedish Competition Authority decides in a particular case not to impose such an obligation pursuant to Section 1, an undertaking affected by the infringement may bring an action about such an obligation. However, such a right to litigate does not exist in cases where the Authority has applied Article 13 of Council Regulation (EC) No 1/2003.

Chapter 3 Section 3

If particular grounds exist, an obligation pursuant to Section 1 may be imposed for the period until a final decision is taken on the matter. The court may only impose such an obligation following the commencement of legal proceedings.

Commitments from undertakings

Chapter 3 Section 4

If the question has been raised as to whether an undertaking infringes any of the prohibitions laid down in Chapter 2, Section 1 or 7 or in Article 81 or 82 in the Treaty, a commitment offered by the undertaking may result in a decision by the Swedish Competition Authority stating that there are no longer grounds for action. Decisions made by the Authority may cover a specified period. As long as the decision applies, the Authority in the circumstances concerning the commitment, may not issue any obligation pursuant to Section 1 or 3.

The Swedish Competition Authority may revoke its decision under the first paragraph where

1. there has been a change in any of the facts which were material to the making of the decision,
2. the parties commit a breach of any obligation attached to the decision, or
3. the decision is based on incomplete, incorrect or misleading information which the parties have submitted.

Administrative fines

Chapter 3 Section 5

The court may, upon an action brought by the Swedish Competition Authority, decide that an undertaking shall pay an administrative fine, if the undertaking or a person acting on its behalf has intentionally or negligently infringed the prohibitions in Chapter 2, Section 1 or 7, or Article 101 or 102 in the TFEU.

The proceeds of the fine shall go to the state.

Before the Swedish Competition Authority brings action on an administrative fine against an undertaking, the undertaking shall be given the opportunity to express its views on the Authority's draft summons application.

Chapter 3 Section 6

The administrative fine may not exceed ten per cent of the annual turnover of the undertaking in the preceding business year.

If an action relating to the fine is brought against several undertakings, the fine shall be determined individually for each undertaking.

Chapter 3 Section 7

An administrative fine may not be imposed

1. in respect of measures taken in compliance with a decision pursuant to Section 1, 2 or 3, a prohibition pursuant to Section 27 or 30 issued under penalty of a fine in accordance with the provisions of this Act,
2. for measures which have been taken during the period when a decision on acceptance of the commitment pursuant to Section 4, first paragraph applies, if the measures are compatible with the decision, or
3. in minor cases.

Pursuant to first paragraph, point 2, an administrative fine may be imposed, if the decision has been revoked pursuant to Section 4, second paragraph, point 3.

Chapter 3 **Section 8**

The administrative fine shall be set according to the sanction value of the infringement.

When assessing the sanction value, account must be taken of the gravity of the infringement and its duration.

When assessing the gravity of the infringement, particular account must be taken of the following:

1. the nature of the infringement,
2. the size and significance of the market, and
3. the infringement's actual or potential impact on competition in the market.

Chapter 3 **Section 9**

As aggravating circumstances when considering the infringement of the undertaking, particular account shall be taken of:

1. whether an undertaking has persuaded another undertaking to join the infringement, or
2. whether the undertaking has had a leading role in the infringement.

Chapter 3 **Section 10**

As mitigating circumstances when considering the infringement of the undertaking, particular account shall be taken of whether the undertaking has participated in the infringement to a limited extent.

Chapter 3 **Section 11**

In determining the size of the administrative fine, particular account shall be taken of the following, in addition to circumstances attributable to the infringement itself:

1. if the undertaking has formerly infringed the prohibitions in Chapter 2, Section 1 or 7, or Article 101 or 102 in the TFEU,
2. if the undertaking has quickly terminated the infringement upon it being pointed out by the Swedish Competition Authority, or
3. the financial situation of the undertaking.

When the size of the administrative fine is determined, the compensation paid by the undertaking in a consensual settlement may be considered as a mitigating circumstance.

Leniency and reduction of administrative fine

Chapter 3 Section 12

Leniency from an administrative fine may be granted to an undertaking that has infringed a prohibition contained in Chapter 2, Section 1 or in Article 101 of the Treaty on the Functioning of the European Union, if the undertaking is the first to notify the infringement to the Swedish Competition Authority and if it is only as a result of the information contained in the notification that the Authority has obtained sufficient material to take action against the infringement.

When the Swedish Competition Authority already has sufficient material to take action against the infringement, leniency from an administrative fine may be granted to an undertaking that has infringed the said prohibitions, provided

1. the undertaking is the first to provide information that results in it being possible to establish that the infringement has occurred, or
2. the undertaking has facilitated the investigation of the infringement to a very significant extent in some other way.

Leniency from an administrative fine may not be granted to an undertaking that has compelled another undertaking to participate in the infringement. In cases referred to in the second paragraph leniency from an administrative fine may not be granted if

1. another undertaking has been given a respite period pursuant to Section 14 a, first paragraph and the information required for leniency has been provided before the expiry of the respite period, or
2. a declaration pursuant to Section 15 has been made.

Chapter 3 Section 13

The fine may be set at a lower amount than would be the case when applying Sections 8-11 for an undertaking which has infringed the prohibition in Chapter 2, Section 1 or Article 81 in the Treaty, if the undertaking provides the Swedish Competition Authority such information that facilitates the investigation of the infringement to a significant extent.

When assessing the amount of the reduction, account must be taken of whether any other undertaking has already provided such information that has to a significant extent facilitated the investigation.

Chapter 3 **Section 14**

In order to be granted leniency or reduction according to Section 12 or 13 the undertaking shall in addition to these provisions

1. provide the Swedish Competition Authority with all the information and evidence about the infringement which the undertaking has or gets access to,
2. actively cooperate with the Swedish Competition Authority during the investigation of the infringement,
3. not destroy evidence or in another way hinder the future or the present investigation of the infringement, and
4. as soon as possible after an application or after it has provided the information stop its participation in the infringement.

Chapter 3 **Section 14 a**

The Swedish Competition Authority may give an undertaking a respite period to provide the information required for granting of leniency from an administrative fine pursuant to Section 12, first paragraph if the notification contains information about which product the infringement relates to, which other undertakings are participating in the infringement and what the purpose of the infringement is. If the undertaking provides the information before the expiry of the respite period, the information shall be deemed to have been provided when the notification was made.

The Swedish Competition Authority may give an undertaking a respite period to provide the information required to grant leniency from an administrative fine pursuant to Section 12, second paragraph, point 1. If the undertaking provides the information before the expiry of the respite period, the information shall be deemed to have been provided when the respite period was requested.

Chapter 3 **Section 15**

Upon an application by an undertaking which notifies an infringement of the prohibition in Chapter 2, Section 1, or Article 101 in the TFEU, the Swedish Competition Authority shall state in a decision if the conditions for leniency pursuant to Section 12, first paragraph, are satisfied. Such a decision is binding on the Authority and the court in cases pursuant to Section 5.

Fine order

Chapter 3 Section 16

Instead of instituting proceedings regarding an administrative fine in accordance with Section 5, the Swedish Competition Authority may order an undertaking to pay such a fine (fine order).

Such an order may only be issued if the Swedish Competition Authority considers that the material circumstances regarding the infringement are clear.

Chapter 3 Section 17

A fine order shall contain details of

1. the undertaking to which the order refers,
2. the infringement and the circumstances that are necessary to characterize it,
3. the provisions applicable to the infringement, and
4. the administrative fine that the order imposes on the undertaking.

The undertaking shall be informed in the order that proceedings regarding an administrative fine may be instituted if the undertaking does not consent to the order within the time specified by the Swedish Competition Authority.

Chapter 3 Section 18

If the undertaking consents to a fine order in writing within the time specified by the Swedish Competition Authority, proceedings may not be instituted under Section 5. A consent that is not given in this way is without effect.

Chapter 3 Section 19

A fine order that has been consented to shall, following an appeal, be set aside under the conditions provided in Chapter 59, Section 6, first paragraph of the Swedish Code of Judicial Procedure. The provisions therein regarding orders for summary penalties and the suspect shall then apply to fine orders and the undertaking, respectively.

A party that wishes to appeal shall do so in writing to the Patent and Market Court within one year from consent being given for the order. In cases concerning appeals against fine orders, the Swedish Competition Authority is the opposing party.

If a fine order has been set aside, the undertaking may thereafter not be held responsible to pay a higher administrative fine for the same infringement.

Time limits

Chapter 3 Section 20

The administrative fine may only be imposed if the summons application has been served on the party against whom the claim is directed within five years from when the infringement ceased. If the undertaking affected has received a decision within this period concerning an inspection according to Chapter 5, Section 3 or is given an opportunity to express its views on a draft summons application of the Swedish Competition Authority, this period shall instead be counted from the date on which that occurred. However, in such cases a fine may only be imposed if the party against whom the claim is directed has been served with the summons application within ten years from when the infringement ceased.

Provisional attachment

Chapter 3 Section 21

In order to secure a claim for an administrative fine, the court may decide upon provisional attachment. In such cases, the provisions in Chapter 15 of the Swedish Code of Judicial Procedure on provisional attachment shall apply.

Payment of fines

Chapter 3 Section 22

A fine shall be paid to the Swedish Competition Authority within thirty days of a judgment gaining legal force or the fine order was approved or a longer period as stated in the judgment or the fine order.

If the fine is not paid within the right period of time, the Swedish Competition Authority shall hand over the demand for collection. Provisions on collection are set out in the Act (1993:891) on the Collection of Debts to the State etc. Execution may take place according to the provisions of the Enforcement Code.

Chapter 3 Section 23

A fine that has been imposed shall lapse if the relevant judgment is not executed within five years gaining legal force or the fine order was approved.

Trading prohibition

Chapter 3 Section 24

The Trading Prohibitions Act (1986:436) contains provisions on the issue of trading prohibitions for certain infringements of the prohibition contained in Chapter 2, Section 1 or in Article 81 of the Treaty.

Damages

Chapter 3 Section 25

The Swedish Competition Damages Act contains provisions on damages for infringements of the prohibitions in Chapter 2, Sections 1 and 7, and Articles 101 and 102 of the TFEU.

Chapter 3 Section 26

Repealed by SFS 2016:224.

Anti-competitive sales activities by public entities

Chapter 3 Section 27

A certain conduct by the State, a municipality or a county council within a sales activity covered by Chapter 1, Section 5, first paragraph, may be prohibited through an injunction, if such conduct

1. distorts, by object or effect, the conditions for effective competition in the market, or
2. impedes, by object or effect, the occurrence or the development of such competition.

An injunction may not be imposed in relation to conduct that can be justified by public interest considerations.

A certain sales activity by a municipality or a county council may also be prohibited in cases referred to in the first paragraph. However, such a sales activity may not be prohibited if it is compatible with law.

An injunction shall take effect immediately, unless decided otherwise.

Chapter 3 Section 28

The provisions of Section 27 shall also be applicable to conduct or activities of another legal person if the State, a municipality or a county council directly or indirectly has a decisive influence over the legal person through ownership, financial participation, applicable rules or through any other means. The provisions concerning the State, a municipality or a county council shall then apply to the legal person.

Chapter 3 Section 29

An injunction pursuant to Section 27 may also cover a practice or an operation that essentially corresponds with the practice or the operation that is prohibited.

Chapter 3 Section 30

If there are particular reasons to do so, an interim injunction pursuant to Section 27 may be imposed. Such an injunction may only be imposed following commencement of legal proceedings.

Chapter 3 Section 31

If the Court has rejected an application for an injunction pursuant to Section 27, the matter may be subject to retrial if there has been a change in any of the facts which were material to the outcome of the case.

An injunction pursuant to Section 27 may be subject to retrial, if there are particular reasons to abrogate or mitigate the prohibition.

Chapter 3 Section 32

The Swedish Competition Authority may bring action for an injunction pursuant to Section 27 or for retrial pursuant to Section 31, second paragraph. An action for retrial of an injunction may also be brought by the entity against which the injunction has been imposed.

If the Swedish Competition Authority in a particular case decides not to bring an action pursuant to Section 27, an action may be brought by an undertaking affected by the conduct or activity.

Chapter 4 Control of concentrations

Prohibition against concentrations etc.

Chapter 4 Section 1

A concentration shall be prohibited if it significantly impede the occurrence or the development of effective competition within the country as a whole, or a substantial part thereof. During the examination of whether the concentration shall be prohibited, account shall particularly be taken of whether it creates or strengthens a dominant position.

A prohibition may only be issued if no significant national security or supply interest will be set aside.

To the extent that the creation of a joint venture which constitutes a concentration in accordance with Chapter 1, Section 9, second paragraph has the aim or effect of coordinating the competitive behaviour of the undertakings which remain independent, in the examination of a prohibition against the concentration the co-ordination shall be assessed in accordance with Chapter 2, Sections 1 and 2.

Chapter 4 Section 2

If it is sufficient to eliminate the adverse effects of a concentration, a party to a concentration, instead of being subject to a prohibition pursuant to Section 1, may instead be required

1. to divest an undertaking or a part of an undertaking, or
2. to take some other measure having a favourable effect on competition.

An obligation under the first paragraph may not be more extensive than is required to eliminate the harmful effects of a restriction on competition.

Chapter 4 Section 3

A prohibition of a concentration means that a legal act which forms part of the concentration or which has the purpose of implementing the concentration is invalid. This does not apply to such legal acts that consist of acquisitions performed on a regulated market pursuant to Chapter 1, Section 4 b of the Securities Market Act (SFS 2007:528), a corresponding market outside the European Economic Area or an MTF platform pursuant to Chapter 1, Section 4 b of the Securities Market Act or through bidding at a compulsory sale. In such cases, the acquiring entity shall instead be obliged to divest the assets acquired.

Chapter 4 Section 4

If a question has arisen as to whether there will be a prohibition pursuant to Section 1 or an obligation pursuant to Section 2, a commitment from a party to the concentration may lead the Swedish Competition Authority not to take any further action against the concentration.

Chapter 4 Section 5

A decision by the Swedish Competition Authority not to take any further action with regard to a concentration shall also cover restrictions directly related and necessary to the implementation of the concentration that has been notified.

Notification of a concentration**Chapter 4 Section 6**

A concentration shall be notified to the Swedish Competition Authority if

1. the combined aggregate turnover in Sweden of all the undertakings concerned in the preceding financial year exceeds SEK 1 billion, and
2. at least two of the undertakings concerned had a turnover in Sweden the preceding financial year which exceeds SEK 200 million for each of the undertakings.

Chapter 4 Section 7

If the turnover requirement according to Section 6, point 1 is fulfilled, but the turnover does not exceed what is laid down in Section 6, point 2,

1. the Swedish Competition Authority may require a party to a concentration to notify the concentration, where particular grounds exist for so doing, or
2. a party and other participants in a concentration may voluntarily notify a concentration.

Chapter 4 Section 8

If a concentration consists of several transactions between the same persons or undertakings, whereby parts of one or more undertakings are acquired, for the purpose of calculating the turnover the transactions which have taken place within a period of two years shall be treated as only one concentration.

Chapter 4 Section 9

A concentration pursuant to Section 6, shall be notified by the party or parties acquiring control over an undertaking or a part thereof. If the concentration means that two or more undertakings consolidate, the notification shall be made by these undertakings.

Chapter 4 Section 10

A notification of a concentration between undertakings may be made as soon as a party or some other participant can demonstrate that they intend to implement a concentration.

A notification of a concentration between undertakings shall be made before the concentration is implemented.

Special investigations of concentrations

Chapter 4 Section 11

The Swedish Competition Authority shall within 25 working days from a complete notification of a concentration decide to carry out a special investigation of the concentration or take no further action.

If the Authority within the period in the first paragraph has received a commitment from a party to the concentration aiming to a decision where the Authority shall take no further action regarding the concentration, the period will be prolonged to 35 working days.

Chapter 4 Section 12

Before a period pursuant to Section 11 has expired, a party or other participant in a concentration may not take any action to implement the concentration. This prohibition does not apply if the Swedish Competition Authority has decided, before the period has expired, not to take any further action regarding the concentration.

If particular grounds exist, the Swedish Competition Authority may grant an exemption from the prohibition stipulated in the first paragraph.

If it is necessary to ensure that the prohibition in the first paragraph is complied with, the Swedish Competition Authority may order a prohibition or an obligation for the parties or other participants in a concentration.

Decisions on measures against concentrations

Chapter 4 Section 13

If the Swedish Competition Authority has decided to conduct a special investigation, the Authority shall within three months of the decision being announced decide on a prohibition pursuant to Section 1 or an obligation pursuant to Section 2 or decide to take no further action regarding the concentration.

A prohibition pursuant to Section 1 or an obligation pursuant to Section 2 may not be imposed more than two years after the concentration arose.

A prohibition pursuant to Section 1 or an obligation pursuant to Section 2 is effective immediately, unless otherwise decided.

Chapter 4 Section 13 a

Before the end of the period stated in Section 13, first paragraph, no party or other participant in the concentration may take any action to implement the concentration. This prohibition does not apply if the Swedish Competition Authority announces a decision before the end of the period pursuant to Section 13, first paragraph.

If particular grounds exist, the Swedish Competition Authority may decide on exceptions to the prohibition in the first paragraph.

If it is necessary to ensure observance of the prohibition in the first paragraph, the Swedish Competition Authority may impose a prohibition or obligation on the parties or other participants in the concentration.

Chapter 4 Section 14

The Swedish Competition Authority may extend the period in Section 13, first paragraph, by not more than one month at a time, if the parties to the concentration give their consent. In the case where another participant has reported the concentration pursuant to Section 7, point 2, said participant's consent is also required. If the concentration has occurred in the manner provided in Section 3, second sentence, the consent of the acquiring party is sufficient.

If there are exceptional reasons, the period may be extended without such consent as stated in the first paragraph.

Chapter 4 Section 15

If the Swedish Competition Authority's decision on a prohibition pursuant to Section 1 or on an obligation pursuant to Section 2 is appealed, the Patent and Market Court shall decide the matter within six months of receipt of the appeal.

The period stated in the first paragraph may be extended by the court under the same conditions as provided in Section 14. (SFS 2017:986).

Chapter 4 Section 16

If the decision of the Patent and Market Court is appealed, the Patent and Market Court of Appeal shall decide on the matter within three months from the date of expiry of the period for appeal.

The period stated in the first paragraph may be extended by the court under the same conditions as provided in Section 14.

Chapter 4 Section 16 a

New designation, Section 17, by SFS 2017:986.

Temporary suspension of time periods

Chapter 4 Section 17

The Swedish Competition Authority may temporarily suspend a time period pursuant to Section 11 or Section 13, first paragraph, if a party to a concentration has not complied with an obligation pursuant to Chapter 5, Section 1, first paragraph, point 1. The period resumes on the first working day after the obligation has been complied with.

At the request of a party to the concentration, the Swedish Competition Authority may temporarily suspend the time period stated in Section 11 for as many working days as the Authority decides.

The Swedish Competition Authority's decision pursuant to the first paragraph may be examined in court in connection with the examination of an appealed decision on a prohibition pursuant to Section 1 or obligation pursuant to Section 2.

Chapter 4 Section 18

Repealed by SFS 2017:986.

Legal force and review

Chapter 4 Section 19

If a decision to take no further action regarding a concentration has been based on incorrect information given by a party or other participant in the concentration, the Swedish Competition Authority may decide to perform a special investigation.

Chapter 4 Section 20

If, after an appeal, the court has annulled a decision on a prohibition pursuant to Section 1 or an obligation pursuant to Section 2, the matter may be examined again if a party or other participant in the concentration has given incorrect information about facts which is material to the court's decision.

An application for a new examination can be made by the Swedish Competition Authority to the Patent and Market Court. The application can be made within one year from the final judgment of the case.

Chapter 4 Section 21

If a decision on prohibition pursuant to Section 1 or an obligation pursuant to Section 2 is no longer necessary or appropriate, the decision may be re-examined by the Swedish Competition Authority on its own initiative or at the request of anyone affected by the decision.

Chapter 5 The investigation of competition cases

Investigations initiated by the Swedish Competition Authority

Chapter 5 Section 1

Where this is necessary for the performance of its duties under this Act, the Swedish Competition Authority may require

1. undertakings or other parties to supply information, documents or other material;
2. persons who are likely to be in a position to provide relevant information to appear at a hearing at a time and place decided by the Authority; or

3. a municipality or county council engaged in activities of an economic or commercial nature to account for the costs of and revenues from these activities.

An obligation pursuant to first paragraph shall take effect immediately, unless other provision is made.

Chapter 5 **Section 2**

In connection with questionings in accordance with Section 1, first paragraph, point 2, statements made by the party being questioned shall be written down. The statement shall be read up or an opportunity given to the party questioned to examine the record in some other way.

The record shall be drawn up and examined before the questioning is concluded or, if the questioning is particularly extensive or covers complicated material circumstances, as soon as possible thereafter.

The party questioned shall be asked whether he or she has any objection regarding the content of the record. An objection that does not result in any amendment being made shall be noted. The record may not be changed after the examination.

Chapter 5 **Section 3**

Upon an application by the Swedish Competition Authority, the Patent and Market Court may decide that the Authority may perform an inspection of a company to establish if it has infringed the prohibitions in Chapter 2, Section 1 or 7, or Article 101 or 102 of the TFEU, if

1. there is reason to believe that an infringement has been committed,
2. the undertaking does not comply with an obligation imposed pursuant to Section 1, first paragraph, point 1, or there is a risk of evidence being withheld or tampered with, and
3. the importance of the action taken is sufficient to outweigh the interference or other inconvenience caused to the parties affected by it.

Chapter 5 **Section 4**

A decision pursuant to Section 3 may also refer to an undertaking other than that to be investigated, if

1. the conditions in Section 3, first paragraph, points 1 and 3 are satisfied,
2. there is a strong indication that the undertaking referred to in the application is in possession of evidence, and

3. the said undertaking does not comply with an obligation imposed pursuant to Section 1, first paragraph, point 1, or where there is otherwise a risk of evidence being withheld or tampered with.

Chapter 5 Section 5

A decision pursuant to Section 3 may also concern homes and other premises of the board and employees of the undertaking which is subject to investigation, if

1. the conditions in Section 3, point 1 and 3 are satisfied,
2. there are indication that the party referred to in application is in possession of evidence,
3. the party referred to in application does not comply with an obligation imposed pursuant to Section 1, first paragraph, point 1 or where there is otherwise a risk of evidence being withheld or tampered with, and
4. the investigation concerns an infringement which is serious.

Chapter 5 Section 6

When carrying out an inspection the Swedish Competition Authority shall be empowered to,

1. examine the books and other business records,
2. take copies of or extracts from the books and business records,
3. ask for oral explanations on the spot; and
4. gain access to premises, land, means of transportation and other areas. With regard to electronically stored information, the measures in the first paragraph, points 1 and 2, may be performed at the Swedish Competition Authority's premises if the party at whose premises the inspection is performed consents to the information being transferred to the premises of the Authority. Said party has the right to observe the measures taken by the Authority.

Chapter 5 Section 7

A decision about an inspection may be issued without the party referred to in the application being given the opportunity to be heard if it is thought that the inspection would otherwise be undermined.

Decisions pursuant to the first paragraph shall only be communicated to the Swedish Competition Authority. When an inspection is initiated, the Authority shall present a copy of the decision to the party on whose premises the inspection shall be carried out.

Chapter 5 Section 8

A decision concerning an inspection shall specify

1. the subject matter and purpose of the inspection,
2. the date on which the inspection is to begin; and
3. the Swedish Competition Authority's powers pursuant to Section 6, first paragraph.

Decisions pursuant to the first paragraph are effective immediately, unless the court decides otherwise.

Chapter 5 Section 9

The party on whose premises the inspection is to be carried out shall have the right to summon a legal representative.

Pending the arrival of such a representative, the inspection shall not begin. However, this shall not apply, where

1. the inspection is unduly delayed as a result, or
2. the decision to conduct an inspection is taken pursuant to Section 7, first paragraph.

Chapter 5 Section 10

The Swedish Competition Authority may request assistance from the Swedish Enforcement Agency in carrying out the measures referred to in Section 6, first paragraph, point 1, 2 or 4.

In assistance, the provisions in the Swedish Enforcement Code regarding the execution of duties not pertaining to payment obligations or evictions shall apply. However, the Swedish Enforcement Agency shall not inform the party at which the inspection is to be performed prior to the commencement of such inspection.

Chapter 5 Section 11

Measures pursuant to Section 1 or 6, first paragraph, may not pertain to a written document

1. the contents of which can be assumed to be such that a member of the Swedish Bar Association or their associate cannot be heard as a witness in regard to the contents, and

2. which is held by the member of the Swedish Bar Association or their associate or the party who is protected by the duty of professional secrecy.

If the Swedish Competition Authority believes that a certain document should be encompassed by an investigation and the party to which the document pertains claims that the document is protected in accordance with the first paragraph, the document shall immediately be sealed and sent without delay to the Patent and Market Court by the Swedish Competition Authority.

The court shall without delay determine whether the document shall be encompassed by the investigation by the Swedish Competition Authority.

Chapter 5 **Section 12**

In measures taken by the Swedish Competition Authority in accordance with Section 1 or 6, first paragraph, there is no obligation to disclose business secrets of a technical nature.

Chapter 5 **Section 13**

Persons or undertakings that are subject to an obligation to supply information under this Act must not be unduly burdened.

Examination requested by the European Commission or an authority in another Member State

Chapter 5 **Section 14**

The provisions in Section 1 and Sections 11-13 concerning obtaining information also apply when the Swedish Competition Authority takes action at the request of a competition authority of another Member State in the European Union.

Chapter 5 **Section 15**

The provisions in Sections 3-13 about inspections also apply to an application which the Swedish Competition Authority makes at the request of a competition authority of another Member State in the European Union.

Chapter 5 **Section 16**

The provisions in Section 6 and Sections 9-13 also apply when the Swedish Competition Authority at the request of the Commission of the European Community carries out an inspection as laid down in Section 22 (2) in the Council Regulation (EC) No 1/2003. However, the provision of Section 9,

second paragraph, first sentence, does not apply if it may be feared that the relevance of the inspection would be impaired, if it was not commenced immediately.

The first paragraph also applies when the Swedish Competition Authority, at the request of the Commission, undertakes an inspection pursuant to Article 12 (1) of the Council Regulation (EC) No 139/2004.

Chapter 5 Section 17

When the Commission of the European Communities has ordered an inspection pursuant to Article 20 (4) of the Council Regulation (EC) No 1/2003 or pursuant to Article 13 (4) of the Council Regulation (EC) No 139/2004, the Swedish Enforcement Authority may on application by the Swedish Competition Authority decide on enforcement assistance in order to enable such inspection to be implemented.

Section 10, second paragraph, applies in connection with enforcement assistance in accordance with the first paragraph.

Chapter 5 Section 18

Questions regarding prior authorisation pursuant to Article 21.3 in the Council Regulation (EC) No 1/2003 are tried by the Patent and Market Court upon application from the Swedish Competition Authority.

If a decision on prior authorisation has been made pursuant to the first paragraph, the provisions in Section 17 on assistance shall apply. (SFS 2016:224).

Legal assistance to an authority in another state

Chapter 5 Section 19

The Swedish Competition Authority may issue an obligation pursuant to Section 1, if it is so requested by an authority in a state with which Sweden has entered into an agreement on the provision of legal assistance in competition cases. If such an obligation is made the provisions in Sections 11-13 apply.

Chapter 5 Section 20

Upon a request from an authority in a state with which Sweden has entered into an agreement on the provision of legal assistance in competition cases, the Patent and Market Court may, upon application by the Swedish Competition Authority, decide that the Swedish Competition Authority

may perform an inspection of a company or some other person to assist the other state in its investigation of whether its rules on competition have been infringement, if

1. the conditions in Section 5, paragraphs 1-3, are satisfied, and
2. the practice which is being investigated is of such a nature that under the application of this Act or the competition rules of the European Union, the practice would have constituted an infringement of Chapter 2, Section 1 or 7 or Article 101 or Article 102 in the EC Treaty, if any of these regulatory frameworks had been applied to the practice.

In cases pursuant to first paragraph, the provisions in Sections 6-13 apply.

Chapter 6 Fines

Conditional fines

Chapter 6 Section 1

The following decisions may be imposed under penalty of a fine:

1. an obligation pursuant to Chapter 3, Section 1, 2 or 3,
2. an injunction pursuant to Chapter 3, Section 27 or 30,
3. an injunction pursuant to Chapter 4, Section 1,
4. an obligation pursuant to Chapter 4, Section 2 or 3
5. a prohibition or obligation pursuant to Chapter 4, Section 12, third paragraph, or Section 13 a, third paragraph, and
6. an obligation pursuant to Chapter 5, Section 1.

A decision to conduct an inspection pursuant to Chapter 5, Article 3 or 20 may be imposed under penalty of a fine. The Swedish Competition Authority may also impose under penalty of fine a decision concerning the fulfilment of obligations pursuant to Chapter 4, Article 6 or 7, point 1.

The Swedish Competition Authority may make a decision to accept a commitment pursuant to Chapter 3, Article 4, first paragraph or Chapter 4, Article 4 under penalty of a fine. Such a decision takes effect immediately, unless otherwise decided.

Imposition of conditional fines

Chapter 6 Section 2

An action for the imposition of conditional fines pursuant to the provisions of this act is brought by the Swedish Competition Authority. In the case of a conditional fine being issued based on an action brought by an undertaking, an action to impose the conditional fine may also be brought by that undertaking.

Chapter 7 Appeals

Chapter 7 Section 1

A decision from the Swedish Competition Authority in the following matters may be appealed to the Patent and Market Court:

1. measures pursuant to Chapter 2, Section 3, second paragraph,
2. obligations imposed by the Authority pursuant to Chapter 3, Section 1, first paragraph, or Section 3,
3. decisions pursuant to Chapter 3, Section 4, second paragraph,
4. prohibitions pursuant to Chapter 4, Section 1,
5. obligations pursuant to Chapter 4, Section 2,
6. prohibitions or obligations pursuant to Chapter 4, Section 12, third paragraph, or Section 13 a, third paragraph,
7. decisions pursuant to Chapter 4, Section 14 or 21,
8. obligations pursuant to Chapter 5, Section 1, and
9. withdrawal of benefits pursuant to Article 29(2) of the Council Regulation (EC) No 1/2003.

Other decisions from the Swedish Competition Authority pursuant to this act may not be appealed.

Chapter 7 Section 2

A decision from the Patent and Market Court pursuant to Chapter 3 Section 30 may be appealed separately.

Chapter 8 Court procedures

Competent court

Chapter 8 Section 1

The Patent and Market Court is the competent court in cases regarding

1. obligations in accordance with Chapter 3, Section 2,
2. administrative fines pursuant to Chapter 3, Section 5,
3. provisional attachments pursuant to Chapter 3, Section 21,
4. injunctions in accordance with Chapter 3, Sections 27 and 31, and Section 32, second paragraph, and
5. imposition of conditional fines pursuant to Chapter 6, Section 2. (SFS 2017:986).

Applicable regulations

Chapter 8 Section 2

The provisions in the Swedish Code of Judicial Procedure on civil cases not amenable to out of court settlement apply in cases pursuant to

- Chapter 3, Sections 2, 5, 27 and 31, and Section 32, second paragraph, and
- Chapter 3, Section 21, even if no action has been brought.

The provisions in the Court Matters Act (SFS 1996:242) apply in matters initiated through an application to the Patent and Market Court.

Chapter 8 Section 3

In cases concerning setting aside a fine order for which consent has been given in accordance with Chapter 3, Section 19, the following provisions apply.

In the proceedings of the Patent and Market Court, Chapter 52, Sections 2, 3, and 5–12 of the Swedish Code of Judicial Procedure shall apply. The provisions applicable to the courts of appeal shall then instead apply to the Patent and Market Court.

As regards appeals of the decision of the Patent and Market Court following a complaint regarding a fine order, Chapters 49 and 52 of the Swedish Code of Judicial Procedure shall apply. What is therein stated regarding the courts of appeal shall instead apply to the Patent and Market Court of Appeal.

The court may decide that a fine order cannot be executed until further notice.

Chapter 8 Section 4

Repealed by SFS 2016:224.

Chapter 8 Section 5

Repealed by SFS 2016:224.

Chapter 8 Section 6

Repealed by SFS 2016:224.

Chapter 8 Section 7

Repealed by SFS 2016:224.

Chapter 8 Section 8

Repealed by SFS 2016:224

Chapter 8 Section 9

Repealed by SFS 2016:224

Chapter 8 Section 10

Repealed by SFS 2016:224

Chapter 8 Section 11

Repealed by SFS 2016:224

The Swedish Competition Authority as a party

Chapter 8 Section 12

For the purposes of matters covered by this Act the provisions of the Swedish Code of Judicial Procedure relating to prosecutors shall, with respect to orders concerning parties and the non-appearance of a party, apply to the Swedish Competition Authority.

Statement from other than a party

Chapter 8 Section 13

A statement which has been submitted by the Commission of the European Community or the Swedish Competition Authority, thereby applying

Article 15 of the Council Regulation (EC) No 1/2003, may be taken into account by the Court without the plea of a party. The parties shall be provided the opportunity to comment on the statement.

Hearing at the Court

Chapter 8 Section 14

Chapter 36, Section 16, second paragraph of the Code of Judicial Procedure applies in connection with judicial questioning of a party or other person regarding what he or she has stated at the Swedish Competition Authority upon a questioning in accordance with Chapter 5, Section 1.

Litigation costs

Chapter 8 Section 15

In cases and matters pursuant to this act, Chapter 31 of the Swedish Code of Judicial Procedure shall apply to the matter of litigation costs, unless otherwise stipulated in this act.

In cases pursuant to Chapter 3, Section 2 and Section 32, second paragraph, Chapter 18 of the Swedish Code of Judicial Procedure shall apply. If particular grounds exist, the court may in such cases decide that each party shall be liable for its own litigation costs.

Chapter 8 Section 16

In cases referred to in Chapter 3, Section 5, compensation for litigation costs is payable for reasonable expenses that have been incurred after a party has been given an opportunity to express its views on the draft summons application of the Swedish Competition Authority. In such cases compensation may be payable to the state for the expenses of the Swedish Competition Authority that have subsequently arisen owing to a party intentionally or by carelessness having occasioned unnecessary litigation.

Chapter 8 Section 17

Repealed by SFS 2017:986.

Chapter 8 Section 18

If a case for damages has been jointly processed with a case concerning an administrative fine, the party who brought the action for damages is only liable for the specific costs that such a party has caused. A party that has requested an administrative fine is not liable for such costs.



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