



# The Swedish Competition Authority's supervision

## – conditions for effective use of resources

The Swedish Competition Authority is the administrative agency for competition issues, responsible for supervision of competition rules. The Authority is also the supervisory authority for public procurement.

To operate effectively, the Competition Authority needs to make the correct priorities among the hundreds of tip-offs about competition restriction and incorrect procurements that it receives every year. An important instrument in this work is the prioritisation policy drawn up by the Competition Authority, which specifies the factors to be taken into consideration in determining priorities. Consumers and both public and private market actors can draw great benefit from effective supervision in this area. Consequently, the Swedish NAO has audited the Competition Authority's supervision of competition and procurement on the basis of the priorities made and their reasons.

The overall purpose of the audit was to assess the Competition Authority's capacity for effective use of resources in its supervisory role.

In its audit the Swedish NAO focused on the Competition Authority's prioritisation policy and supervisory processes. This is partly a matter of whether the prioritisation policy is well-founded and partly how it is applied in practice. It concerns the internal premises for priorities and effective supervisory work; in other words whether internal control at the investigation stage functions well in ensuring effective investigations.

The audit answers two audit questions:

- Does the Swedish Competition Authority's prioritisation policy contribute to effective supervision?
- Does the Swedish Competition Authority's internal control create the conditions for effective supervision?

The method for answering the audit questions was a combination of interviews and examination of documents. Where the Competition Authority's internal control was audited, a description was also compiled of the supervisory processes, with subsequent tests of the key controls of the processes.

## Audit findings

The audit found deficiencies in the Competition Authority's supervisory activities. The deficiencies refer to both the Competition Authority's prioritisation policy and its internal control.

The Competition Authority communicates externally that it applies a prioritisation policy to handle the inflow of tip-offs in both competition and procurement supervision. The audit cannot verify the contribution of the prioritisation policy to effective supervision. This conclusion applies in particular to competition supervision. The prioritisation policy is difficult to apply to some types of case and does not contain factors that are relevant to the Competition Authority. Project evaluations of supervisory investigations carried out seldom feed back into the prioritisation policy.

Moreover, the audit shows deficiencies in how the Competition Authority has organised its internal control for supervisory activities. The deficiencies concern both how the day-to-day work is managed and controlled, and how the supervisory organisation is designed. The deficiencies in internal control impair the conditions for determining priorities and thus the effectiveness of the supervisory activities.

There are differences between the competition and procurement supervision. While procurement cases are usually investigated in a relatively short time, there is great variation in the competition cases, some of which take more than 10,000 investigation hours. There are clearer links to the prioritisation policy within the procurement supervision, while they are weaker in the supervision of competition.

The resources of the Competition Authority are unevenly divided between the Authority's competition and procurement supervision. The Swedish NAO was not able to identify any documentation or decisions on which the current allocation of resources between the Authority's areas of supervision is based. The Competition Authority, unlike a majority of the European competition authorities, does not have its own decision-making powers in cases of competition damage fees and anti-competitive public sales activities, but must pursue these cases in the courts.

All in all, the Swedish NAO considers that the use of resources by the Swedish Competition Authority can be improved. For more effective use of resources by the Competition Authority the supervisory processes must be reviewed, including the application of the Authority's prioritisation policy. To support this work, the Swedish NAO makes a number of recommendations to the Swedish Competition Authority. The recommendations should be seen in light of the fact that review and adjustment of the Authority's internal control may entail inherent costs. The costs of any new control measures should therefore be set in relation to identified risks.

## Recommendations

The Swedish NAO makes the following recommendations to the Swedish Competition Authority:

1. Improve internal control in the Authority's supervisory activities. This should include for example:
  - a. reviewing current division of responsibilities and roles between the investigation department and the legal department, for both areas of supervision and within investigations of competition supervision
  - b. considering the introduction of mandatory internal time limits in all investigations
  - c. introducing controls for critical examination of continued investigation for when there are material changes in ongoing cases
  - d. reviewing existing investigation support and in particular application of templates and IT support.
2. Formalise feedback to prioritisation policy from the supervisory activities. This should include for example:
  - a. clear feedback to the policy in project briefings and in the project evaluations carried out after supervision cases are closed
  - b. clarifying and supplementing the prioritisation policy on the basis of experiences in the supervisory process.
3. Evaluate whether the current distribution of resources between competition and procurement supervision are appropriate, given the Authority's remit and allocated resources.