Contents

To the reader ................................................................. 4
FCA's operating principle, tasks and key industries. ............. 7
Competition policy environment ................................. 8
FCA's personnel and organisation ............................... 10
Figures from 2000 ...................................................... 12
Strategic projects and other case investigation .................. 14
  Government and markets ........................................ 14
  Energy and public service utilities ............................ 18
  Communications .................................................. 19
  Finance ............................................................. 23
  Forest industry and economy .................................. 23
  Other industries .................................................. 25
Control of concentrations ............................................. 28
Articles ........................................................................ 41
  Martti Virtanen and Raili Mäkitalo, Marketisation of Communal
    Production .......................................................... 41
  Henriikka Piekkala, Vertical Integration as an Obstacle to
    Telecommunications Competition ........................... 46
  Juhani Jokinen, Policy Issues in Control of Concentrations .... 53
FCA's decisions in 2000 ................................................. 63
FCA's proposals to the Competition Council in 2000 ......... 72
FCA's initiatives and statements in 2000 ......................... 73
Competition Council's decisions within the field of FCA in 2000 76
Supreme Administrative Court's decisions
  within the field of FCA in 2000 ................................. 78
Contact information .................................................... 79
To the reader

Year 2000 shall be remembered not only for the millennium but also as the year that an exceptionally vast number of initiatives were made within competition policy.

In Finland, a working group of civil servants led by competition minister Mr Kimmo Sasi started its work last summer. Its task is to propose initiatives to develop the central programme issues of national competition policy by the spring of 2002. The group focuses on the following: developing competition-related training and research, increasing analytical awareness on the state of the product market, assessing the special problems of the small and medium-sized sector, developing market definition in the state of the new economy and globalisation and clarifying the line between private and public business. An extensive and challenging exercise!

Prior to this, there has not been a great desire in Finland to discuss the objectives and means of competition policy. It has sufficed that first the competition laws were copied from Sweden and later the instruments of EU competition legislation. The former work defining Finnish competition policy was conducted during 1985–87 in a committee led by Minister Mr Esko Rekola. It remains to be seen whether the fact that the working group is headed by the Minister helps to bring the matter forward.

The European Union has also undergone an active period in competition-policy matters. This has e.g. resulted in a new block exemption regulation on vertical competition restraints, which has remarkably clarified the administering of the most harmless restraints, i.e. those related to distribution channels.

The European Commission took on a far bigger task when it issued its draft proposal on the reform of the regulation implementing Articles 81 and 82 of the Treaty in autumn 2000. The Commission has clear aims: unnecessary bureaucracy shall be eliminated, resources shall be directed to combating the most harmful competition restraints and powers shall be delegated from the Commission to the national authorities. Even though the objectives are good and supportable, the initiative has not – at this time of writing – caught much wind. Apparently because the details of the Commission’s proposal seem to lead to wholly contrary results to what was originally planned.

It is interesting that, at the same time that the contents of competition policy and the new challenges are reviewed in Finland and in several other countries, the Commission has remained a prisoner of procedural reform. I would believe that,
in Europe, e.g. the reform of the theoretical basis of merger control would be welcomed with joy. There would be enough to be considered in why the EU merger control is based – and this is particularly problematic for the small countries – on the assessment of a creation or strengthening of dominant position, when, elsewhere in the world, it is based on the ‘simple’ assessment of competitive effects.

The rapid globalisation of business life and the international ‘merger waves’ have created an uncommon pressure to create a global competition policy actor. Competition is needed in this context, too, and there are no less than three concepts on offer: WTO, the American-European ‘Global Competition Initiative’ and the ‘Global Competition Forum’ prepared by the OECD. The adversaries of competition often talk about the destructive effect of competition on resources. This might first seem to be the case here, but it is equally likely that precisely through competition the best and most enduring ideas will be rewarded!

*  

What about the role of the FCA? Year 2000 was the year of unparalleled personnel turnover and scarcity of resources in the history of the FCA. This combined with the drastic changes in its operating environment forced our personnel to work in exceptionally demanding circumstances. Despite the difficulties, we were able to achieve almost all the goals we agreed upon. This would not have been the case if our staff were characterised by traditional civil servant thinking. With good reason, I am proud of our expert and hardworking staff. It is no wonder that other employers are also interested in them!

Matti Purasjoki, Director General
11 March 2001
FCA's operating principle, tasks and key industries

The FCA's operating principle is to increase the efficiency of the economy by promoting competition and removing restrictive practices.

To fulfil its principle, the FCA
- examines competition restraints which are harmful to sound economic competition both on its own initiative and on the basis of complaints, and takes measures to eliminate them or their harmful effects;
- when necessary, makes initiatives to the Competition Council for the banning of competition restraints and the imposing of competition infringement fines;
- investigates the concentration cases falling under its jurisdiction and solves the exemption and negative clearance applications lodged within the office;
- follows the preparation of economic legislation and gives statements about questions related to its field;
- takes initiatives to promote competition and to dismantle restrictive rules and regulations;
- gives its opinion about the competition restraints and concentration issues pending at the EC Commission in Advisory Committee meetings;
- looks after issues falling under its jurisdiction as a competent national authority under the EC legislation and engages in international co-operation within its field.

The control of concentrations has quickly established itself as one of the primary targets of investigation at the FCA. The other so-called key industries are chosen with the aim of focusing the FCA's activities on fields, which are essential for the efficiency of the economy. In addition to any particular sectors of the economy, the key industries may also include special competition restraints or procedural issues.

The FCA aims at an efficient allocation of resources e.g. by speeding up the processing of cases of minor importance and by exploiting the possibility not to take action if the competition restriction only exhibits a minor effect on economic competition. Another objective is to enhance the FCA's preventive and consultative role in relation to subsequent control.

In recent years, the FCA's key industries have come to include not only the traditionally monopolistic sectors but also fields where structural change is especially rapid due to the development of technology or the structure of supply or demand
and where the competition restraints may have far-reaching effects for the general development of the national economy. Public production and service provision are also increasingly entering the sphere of private business; a sector vastly gaining in importance.

The FCA’s key industries are annually confirmed in the performance target agreement between the FCA and the Ministry of Trade and Industry. In 2001, these include the promotion of the marketisation of public service production and the investigation of competitive problems with respect to energy and public service utilities, communications and telecommunications markets and the finance sector. The fields of trade and industry also receive a separate mention in the agreement.

In international issues, EU affairs receive priority and the focus is on the relevant issues for Finnish competition control and development of the community competition policy. In EU affairs, particular attention is paid to cases where one party is a Finnish company or where foreign firms appreciably affect competition in the Finnish market e.g. through their subsidiaries.

The FCA also cooperates closely with Nordic colleagues and Estonia and Russia. Other internationally important interest groups include the OECD and WTO.

The Provincial State Offices also engage in the investigation and control of local competition restraints.

Competition policy environment

Changes in the operating environment pose constant challenges for the FCA. E.g. the following considerations have influenced the choice of key industries in recent years:

- Innovations within information and other technologies are commercially exploited more rapidly and effectively than before and the average lifespan of products has shortened.
- Success in the market is increasingly based on there being product and/or service packages on offer for the users; these contain several components instead of individual products.
• Production and trade practices are changing e.g. due to logistical innovations and the spread of electronic trade.
• Market structures have become more versatile and the definition of market areas has become more complicated because of globalisation and networking.
• Structure and economic role of the public sector is substantially changing.

Rapid technological progress and changes in supply have led to increased difficulties in defining products and their replacements (products and/or services); a central issue in competition control. The definition of the so-called relevant markets has also become more difficult.

The cooperation and competitive settings of the markets are diverse and undergo constant changes, hence making it more difficult to estimate the effects of the changes on the competitive scene. The FCA has already had to make several demanding case-specific assessments related e.g. to non-competition clauses, the competitors’ joint products, joint ventures and the exchange of strategically delicate information between competitors.

The above features have resulted in a situation where e.g. international cooperation between the authorities of different countries is more necessary than ever before. Particularly within WTO, possibilities to enhance cooperation and to create common multilateral principles within the competition rules have been considered. However, the reconciliation of trade policy interests and drafting general multilateral norms has proved quite difficult, politically.

International cooperation has increased within the EU as well. Considerable reforms were made in the EU competition rules during 2000, and more changes are underway. Central to the FCA has been participation in the reform of Council Regulation No 17 implementing Articles 81 and 82 of the EC Treaty and the Commission Notices on the Merger Regulation. The number of hearings and Advisory Committee meetings has increased each year. In 2000, the number of EU meetings related to the FCA’s tasks amounted to over 90, i.e. almost two per week.

In addition to EU, international cooperation has increased between the Nordic competition authorities as well, e.g. due to the Nordic nature of many industrial arrangements. Simultaneously, cooperation with the other neighbours has also become tighter, as the EU enlargement and the increase in competition policy activity in Russia and other near regions increases the need for technical aid to support the work of the local competition authorities.
FCA’s personnel and organisation

The FCA has approximately 60 employees, who are divided into seven units headed by the Director General. The units were responsible for the following (situation 1 January 2001):

- Merger Control;
- Markets 1: telecommunications, electronic and graphic mass communications, finance, energy and public service utilities;
- Markets 2: trade, industry, transport and services;
- Markets 3: governmental competition restraints, construction and the environment;
- International affairs: EU coordination and other international cooperation, cooperation with Provincial State Offices;
- Communications and Personnel Development: communications, personnel development, information services and translation services;
- Administration: personnel and financial administration, information management.

It is the task of the two directors of the FCA to assist the Director General in the execution of the activities of the office. One of the directors is Head of the Merger Control Unit, Mr Juhani Jokinen and the other Master of Laws, LL.M. Ms Kirsi Leivo, from 1 June 2001. The case officers have the titles of Research Officer, Senior Research Officer and Head of Research.

In addition to a good command of Finnish and EU competition legislation and the related case-law, work at the FCA requires that the case officers constantly deepen their knowledge of the economy and economic analysis. Linguistic and negotiation skills and other communication skills that are also necessary in international cooperation are central to the work.

Generally, the FCA’s personnel have an appropriate, relatively high level of education. A degree from higher education is the commonest type of basic education. The share of master’s and post-graduate degrees is almost 80% at the FCA. The personnel’s expertise is constantly developed through extensive internal and external training.

Personnel turnover, typical of public administration in recent years, is also a problem at the FCA. In 2000, for example, 8 employees left the office, which
makes the exit per cent almost 12. The turnover primarily concerned the younger case officers measured by the number of years in office.

However, the FCA had no difficulties in finding well-educated replacements. It has usually been possible to recruit the new employees from among trainees who have previously worked at the FCA or among those who have contacted the office on their own initiative.

In 2000, 15 permanent or temporary employees were recruited to the FCA, which makes the intake per cent over 20. The training of new employees takes a large amount of the superior’s and other personnel’s time, however, and thus slows down case investigation.

In addition to permanent and temporary office holders, two secretarial trainees, five non-military servicemen and nine university trainees worked at the office last year. Including these, the FCA’s resources amounted to 61.5 person-years. Case officers from the Provincial State Offices also work at the FCA on a regular basis.

The recruitment of new, often young employees annually lowers the average age of personnel. At the moment, it is 41 years. The sex distribution of personnel is relatively even: at the end of 2000, there were 56 per cent of women and 44 per cent of men. The average amount of years spent at the FCA is approximately 7 years.
The number of domestic cases investigated by the FCA increased in 2000, with respect to both opened and closed cases: there were 478 opened and 471 closed cases. The increase resulted primarily from the control of concentrations where almost twice the amount of cases was reviewed compared to 1999. The amount of other cases decreased by a few per cent.

The dramatic increase in the number of concentration notifications combined with the scarcity of the FCA’s resources and the high personnel turnover resulted e.g. in the number of investigations commenced and the number of initiatives made by the FCA decreasing by approximately one third from 1998 to 2000. The FCA commenced investigations on its own initiative in only eight cases last year.

The organisation of the FCA’s work is substantially affected by the deadlines imposed in the law for the merger control issues. The first stage of the proceedings shall last a maximum of one month and further proceedings a maximum of three months.

In 2000, approximately 21 days were spent investigating concentrations approved as such during the first stage of the proceedings. The time spent varied from 5 to 31 days. In cases transferred to stage two, the average time was 73 days from commencing the further investigations. I.e. it was possible to comply with the deadlines prescribed by the law and they even shortened compared to 1999.

The average amount of time spent investigating other cases increased, however. In addition to the lack of resources, this was due to a great number of the cases being considerably more demanding than before. Fortunately, the investigation of exemptions and competition restraints of minor importance took a shorter time than last year.

The FCA has sought to alleviate its workload by speeding up the processing of cases of minor importance and by using the possibility not to take action if the competition restriction only exhibits a minor effect on economic competition. The latter means has been used approximately 40–50 times during 1999–2000. The problem has been that some of the above-mentioned decisions have been referred back to the FCA following appeals made to the Competition Council.

In addition to cases investigated at the FCA, 85 competition restraint cases were opened at the Provincial State Offices. There were 57 closed cases. Approximately half the cases were commenced by the FCA itself; the rest of the investigations had been initiated on the basis of complaints that had arrived directly at
the Provincial State Offices.

In 2000, the FCA made eight proposals to the Competition Council, i.e. relatively many compared to the previous years. In 1992–1999, 31 proposals were made in all, i.e. four proposals per year on the average.

The number of Competition Council's decisions – 20 – within the field of the FCA was higher last year than it had been previously. Of the decisions, 11 concerned appeals made on the FCA's decisions, one a proposal made in the context of merger control, eight other proposals made by the FCA and one the powers of the Competition Council. In 1999, the Competition Council issued eight decisions.

The Supreme Administrative Court issued six decisions within the field of the FCA in 2000.

This publication closes by listing all the decisions, proposals, initiatives and statements made by the FCA in 2000. It also includes lists about the decisions made by the Competition Council and the Supreme Administrative Court within the field of the FCA.
Strategic projects and other case investigation

Commenced in 1998, the Government and Markets project and its section on government offices focus on influencing the reorganisation of production activities and the reform of regulation and administrative practice. With respect to the marketisation of the municipal service production, the FCA aims at the prevention of potential competitive problems, providing information on the possibilities of workable competition and locating measures limiting and distorting competition.

It is the aim of the project to secure the possibilities for sound economic competition between private and public production in a situation where fields of public production are opened up for competition and where public production expands into sectors where previously only private enterprises have operated. The objective here, too, is to increase economic efficiency, to secure the benefits of the consumers and to develop and expand the trading opportunities of business undertakings. In the context of the project, the FCA has sought to create sustainable principles, from a competition policy viewpoint, for the assessment of public business.

From the viewpoint of competition, the problems still centre on the ongoing partial protection of public production from competition, which brings with it both possibilities and incentives for artificial restriction of competition. The different parties involved in FCA’s project work have found it necessary and are of the opinion that it has benefited both the public organisations themselves engaging in business and private companies.

The initiatives and statements related to the project have, in several cases, resulted in genuine changes in the conduct of the relevant actors. Due to the project, the monitoring authorities of the public sector have become much more aware of the existence of the problems and their economic significance.

Representatives of the FCA have discussed the role of government and markets in several public seminars and training sessions. Participation in different legislative and other reforms has also been typical. An example of the latter form of advocacy is the participation of FCA’s representatives in the preparation of legislation concerning the reform of the Finnish National Road Administration and the tendering of the maintenance of the railway track in 2000.

In accordance with the project principles, complaints have been primarily dealt with through consultation instead of Competition Council proceedings. In the following, summaries of the major cases investigated within the project during 2000–2001:
Government offices

- The organisation and activities of the Finnish Road Administration (hereinafter Finnra) have been developed in accordance with the March 1999 initiative of the FCA. A separate office ordering road maintenance works (Finnra) and Finnish Road Enterprise offering road maintenance commenced operations on 1 January 2001. The FCA also participates in the follow-up of the reform. The FCA’s statement from 2000 finds that, during the transition period, Finnra has to explore the use of total and subsequent financing more extensively than before in major infrastructure projects and to extend tendering to smaller building and maintenance works. In addition, any changes shall occur systematically and predictably to enable private companies to engage in organisation reform and the development of their conduct, and subsequently, to participate in road building and maintenance work.

- With regard to the Avena Group, the FCA made an initiative in June 2000 where it proposed that the reserve supply services of grain be tendered to secure that the company responsible for the swapping of grain would solely manage the reserve supplies and obtain the necessary storage services from suppliers approved by the National Emergency Supply Agency. Hence, in the summer of 2000, the Agency arranged a tender on the reserve supplies services of grain.

  The FCA also investigated whether Avena Siilot Oy artificially supported Avena Nordic Grain part of the same Group while pricing its cargo handling and storage. The investigation resulted in Avena Siilot announcing, in December 2000, that it would adjust its RPM usage and delivered to the FCA a price list effective from 1 July 2001, which enables workable competition.

  Avena Siilot was also found to have abused its dominant position by keeping its pricing system confidential. However, as the company published its price list during the investigation, the FCA did not make a proposal to the Competition Council. The pricing of storage services by Avena Siilot was also suspected to be unreasonable, but the investigation was discontinued after the company has reduced the storage prices of its inland reserves by 20 per cent.

- In the Finnish Meteorological Institute (FMI) case, the FCA made a proposal to the Competition Council in the summer of 2000 with regard to meteorological data, where the FMI was found to have abused its dominant position when lowering the quality level of the radar images it delivered for international distribution. Because it was a question of wilful activity to which there were no acceptable financial or technical grounds, the proposal was made even though FMI had already quit the practice. The FCA also proposed that an infringement fine of FIM 200 000 be imposed on FMI. The case is still pending at the Competition Council.

  The weather service market is presently in a state of transition where the new service competition has begun to threaten FMI’s traditional dominant position. A corresponding development is also underway elsewhere in Europe. It is characteristic of the market that national meteorological institutes produce weather observations (meteorological data), which the commercial units of the institutes themselves and private weather service providers use when producing weather services. To maintain competition neutrality, it is vital that the national institutes collect uniform prices for meteorological data from both parties.

  FMI still has major operating areas which are protected from competition and which provide it with strategic possibilities to affect competition in the Finnish weather service market. These include the production and distribution of meteorological data and some of the
services. As a solution to these problems, the FCA proposed, in the early spring of 2001, that the commercial weather service activities of FMI be incorporated and separated from the production of meteorological data and products. A complaint has been lodged with the FCA on weather services where FMI is suspected of predatory pricing in autumn 2000.

- With regard to the Finnish Maritime Administration (FMA), the FCA issued a statement in 2000 where it supported the development of the FMA’s organisation and activities on the basis of a uniform state enterprise model. The statement emphasised that the maritime commerce should pay FMA for services rendered only, and this should not be used to subsidise the costs of the other operations of FMA. Creating conditions which give rise to and promote competition in the central operating areas of FMA was found problematic, however. According to the FCA, the customer-funded business could also be incorporated.

**Welfare service sector**

On the basis of complaints received, the FCA has also investigated the conduct of the various public health care units while these are expanding their operations into service production considered conducting of business. The problem is that public service production is being created in an area protected from competition, which provides it with an economies of scale benefit compared to the private sector. Since public health care units do not follow similar commercial pricing principles as private business undertakings, the competitive scene may become distorted, even though direct under-pricing or other artificial transfer of resources would not be involved. The FCA investigated e.g. the following cases related to health care last year:

- The Turunmaa hospital was found to have expanded its service provision to occupational health services but not to have priced the services on commercial grounds, although this would have been possible. The result was that the prices of occupational health examinations were considerably more inexpensive than the corresponding services offered by the private sector. The hospital was not found to occupy a dominant position, however, and its pricing did not indicate a direct under-pricing or predatory pricing. More generally, the FCA found that the pricing conduct of such a public institution may, when becoming more common and extensive, have significant effects on competition and the functioning of the market.

- In the case involving the laboratory centre of the Pirkanmaa hospital district, the cost price followed by the centre does not appear to fulfil the demands of competition neutrality of the open market. The hospital district was asked to announce which measures it shall take on the basis of the FCA's observations. At the same time, the hospital district was asked to assess what the significance of the provisions given on the customer fees of social welfare and health care is for the competitive situation of the service providers. The provisions provide on the laboratory and X-ray investigations in hospitals and health care centres, and prescribe that a maximum fee corresponding to the costs incurred in the production of the services may be collected for them.

In its response, the laboratory centre pointed out the competitive effects of the health insurance system of Kela, the Social Insurance Institution of Finland, which supports the private sector, and some other reasons limiting competition in the laboratory field. The FCA has requested that private laboratory service providers give a statement about the matter.

During the investigation, the laboratory centre and the Pirkanmaa hospital district have
demonstrated that they seek to adopt market-based practices and, at the same time, to achieve genuine economies of scale and efficiency with organisation arrangements. Similar conduct is becoming the norm in other hospital districts, too. If the barriers between public and private service provision are removed from the laboratory field and the possibility for similar profit seeking is provided to private business undertakings, the development of the field may be perceived to be healthy.

- The case involving Oulu university hospital has similar features to the Pirkanmaa case, and the FCA aims to make coordinated decisions in the two cases. The Oulu case involves the pricing of X-ray and other photography services offered to the private sector and the economies of scale made possible by the hospital's protected position having the potential to distort competition without actual cross-subsidisation and under-pricing. The hospital district of Northern-Ostrobothnia itself has considered that the current pricing covers the production costs involved.

  Generally, the competitive situation may only improve if it is possible for the private sector to compete for the public health care services. During the investigation, the hospital district of Northern-Ostrobothnia has announced that it follows the possibilities to obtain X-ray and other photography services from outside providers as well. However, at the moment, private service providers are not able to meet the demand without major investments. On the other hand, the hospital district has not found it profitable overall to make parallel investments elsewhere in Northern-Ostrobothnia.

- The bidding cartel decision made by the FCA in autumn 2000 considerably boosted the competitive conditions of the pharmacy field. The case was opened following a complaint by the city of Helsinki where the Finnish Pharmacy Association and almost all the pharmacies participating in the tender arranged by the city of Helsinki were found to have engaged in cooperation, which violated the Act on Competition Restrictions (hereinafter the Competition Act). The investigation of the case was not continued or referred to the Competition Council, because the forbidden conduct was found to have been partially caused by the monitoring authorities actively interpreting the price list for medicines as a system implying identical prices. The FCA also paid attention to the fact that the pharmacies had not been previously tendered.

  The majority of the pharmacies which participated in the tender had adhered to the maximum prices confirmed by the State Council. However, according to the statement issued by the Ministry of Social Affairs and Health, the price list for medicines confirmed by the State Council shall be considered a maximum price system for medicines and hence cannot be appealed to, in order to prevent competition in the medical field. In the future, parties making medical and nursing supply purchases have the basis and legal right to tender pharmacies.

- In February 2000, a new decision was issued by the FCA on the single channel distribution of medicines. The FCA did not take a stand to the individual competition restraints proposed therein; it examined the single channel system as a whole. The main finding was that, at this stage, the FCA does not intervene with the single channel system, as the structure of the relevant wholesale business is currently undergoing a change from inside the field. The decision also found that the exclusive rights agreements in medicine wholesale business may require that they be notified to the European Commission, as the Commission Regulation (EC) No 2790/1999 on the application of Article 81 (3) of the Treaty to categories of vertical agreements and concerted practices cannot, according to the FCA, be applied to the exclusive rights agreements. The single channel system has not in itself been found to harm the position of parallel distributors.
The competitive effects of the support granted by Finland’s Slot Machine Association RAY to charitable organisations were investigated both on the basis of a complaint and several inquiries and the FCA’s own investigations. Home assistance services for the elderly, service home activities for the elderly and disabled, provision of catering services to other than the prime target group and patient transport operations were targeted, in particular.

RAY’s support to charitable organisations in the field of social and health care is considerable each year and may thus have appreciable effects for competition. E.g. for 2001, the support received by charitable organisations amounts to FIM 2.1 milliard altogether, making an increase of 8.8 per cent to 1999. RAY and the Federation of Finnish Enterprises drafted a recommendation in spring 2000, which lists several of the FCA’s views and the FCA also continued its cooperation with RAY after the recommendation had been issued. In November 2000, the FCA delivered to the RAY its proposal for principles, the following of which would relieve the distortion of the competitive scene between the charitable organisations receiving support and the other service providers. RAY’s stand to the proposal was positive. The FCA’s final statement was given in January 2001.

There are currently three FCA proposals related to the project pending at the Competition Council. The proposals concern the banning of abuse of dominant position and include the unreasonable pricing of electricity transmission and district heating by Helsinki and Kuopio Energy and the unreasonable customer fees collected by the Port of Helsinki. The forthcoming Council decisions will be major precedents in the assessment of the abuse of dominance by so-called natural monopolies.

Below, summaries of the above-mentioned proposals and the other main cases related to the project:

- In the FCA’s proposal on the Kuopio power plant Kuopio Energy, it was found that the pricing of the power plant’s electricity and district heating services has been unreasonable at least during 1997–99. Since the power plant has not taken steps to alter its pricing practice in spite of several requests to do so, the FCA proposed in December 2000 that the Competition Council order that the city of Kuopio/Kuopio Energy terminate the conduct violating the Competition Act and impose on the city/the power plant a competition infringement fine of FIM 5 million. – A corresponding proposal to the Competition Council on Helsinki Energy was made in 1999 already. The competition infringement fine proposed therein for the abuse of dominance amounted to FIM 30 million.

- In a Competition Council proposal made in August 2000, the Port of Helsinki was found to have abused its dominant position by pricing its port services unreasonably at least during 1997–1999. The Competition Council also found that the pricing of the port and passenger traffic services was intransparent and did not correspond to the actual costs incurred.

- In a FCA decision made in September 2000, Vapo was found to have abused its dominant position in the energy peat market when it applied to its customers so-called tying pricing
practice showing as marginal pricing. Vapo’s pricing, where the price of peat varies according to usage, was considered unreasonably discriminatory of its customers and it did not fulfill the principle of cost-accountability. The pricing of peat was not considered sufficiently clear and transparent. Vapo has appealed the decision to the Competition Council.

- In its decision made in December 2000, the FCA found that the regular customer schemes applied by some local power plants in the retail sales of electricity did not seem to include forbidden tying nor were the discount systems found to exhibit harmful effects. Although the FCA did not find the systems and the related conduct an abuse of dominance or a harmful competition restraint, the FCA found it important to increase the clarity and unambiguity of the regular customer schemes and the pricing and discount principles granted on the basis thereof.

In the communications project, it is the task of the FCA to ensure network neutral regulation and to monitor that the various cooperation arrangements between communications companies caused by the integration of telecommunications and mass communications do not have exclusionary effects or ones that decrease economic efficiency.

The objective is also to ensure that the unreasonable pricing of the fixed subscriber lines (leased lines) or the tying seasonal discounts of telecom service agreements do not prevent the opening up of competition in the telecom market or block the entry of new telecom service operators to the market. The FCA promotes the co-location of local telecom companies, which increases the efficient and open supply of Internet connections. The aim is to ensure free access to the cable networks for the purposes of different data communications services.

In electronic and graphic mass communications, the FCA seeks to secure that the companies do not use exclusionary or unreasonably customer-friendly practices. In postal operations, the aim is to promote competition in postal activities covered by the Act on Postal Operations and in the arrangement of postal transports.

In the beginning of 2000, the project was divided into two parts, i.e. telecommunications and mass communications, due to the large number of complaints.

Telecommunications

During 2000–2001, telecommunications has proved to be FCA’s biggest project area measured by the number of cases. In 2000, 48 cases altogether were solved in the project; 11 of these were decisions, 5 exemptions and 16 statements. In the beginning of 2001, there were 26 open cases. In addition to the investigations concerning Finland, the FCA is also participating in the regulatory reforms underway within the EU.
Of the cases concerning the pricing of fixed connections, three are presently pending at the Competition Council. Below, descriptions of these and summaries of the other major cases involved in the project:

- In the FCA’s proposals to the Competition Council in February 2000, the local telephone companies Turun Puhelin and Salon Seudun Puhelin were found to have abused their dominant position by pricing the subscriber lines of the fixed network and the fixed connections in a discriminatory, tying and unreasonable manner. The FCA also proposed that the Council impose on Turun Puhelin an infringement fine of FIM 5 million and on Salon Seudun Puhelin an infringement fine of FIM 1 million. The proceedings in these two cases, as well as those regarding Helsinki Telephone previously referred to the Council, have finished but the Council has not yet issued its decisions.

- During 2000–2001, several cases on Helsinki Telephone (presently Elisa Communications), in particular, have been opened at the FCA. The cases have involved the pricing of IP calls, the Diana telecom service agreements and the pricing of the preselection of telephone and ISDN connections and foreign calls.

  In the FCA’s spring 2000 decision on the pricing of IP calls by Helsinki Telephone, it was required that the company should offer competing telecom operators interconnection of telecom networks and telecom services in places found appropriate by the competitors, including the local call centres of Helsinki Telephone. In addition, connections should be offered on equal, transparent and reasonable terms. The FCA also found that Helsinki Telephone had abused its dominant position, when it had not offered interconnection to local centres for other operators. The pricing of the IP call within the single operator’s network was not found to have harmful effects, however.

  Co-location was considered a precondition for competing operators being able to offer corresponding packet switched Internet call. Non-discriminatory and reasonable supply and co-location enable the introduction of more efficient packet switched Internet calls onto the market. Additionally, the FCA found that the company’s information policy on the introduction of the IP network had not met the demands set on a company in a dominant position. This prevented competitors from preparing themselves beforehand for the changes required by the new pricing.

  Following the FCA’s decision, Helsinki Telephone published its interconnection price list in a manner required by the FCA. The unreasonable pricing perceived as potential abuse of dominance contained in it is being investigated further, however, on the basis of a new complaint lodged with the FCA.

- Regarding Sonera, the FCA investigated e.g. the discounts granted from the Skaala agreements, the retail sales of data services and the K-Plus regular customer scheme and the pricing of the NMT exchange offer in 2000. Additionally, the FCA made a decision based on Telia’s complaint in January 2000, where a stand was taken to the market position of Radiolinja and Sonera. Telia appealed the Sonera decision to the Competition Council.

- A decision on the so-called ownership discount system applied by Päijät-Hämeen Puhelinyhdistys was obtained in December 2000. The Competition Council found in favour of the FCA’s proposal that Päijät-Hämeen Puhelinosuuskunta occupied a dominant position in local telephony operations conducted in the fixed network and that it had abused its position by applying a tying
and discriminatory discount practice, which did not correspond to actual costs incurred, in the form of so-called ownership discount. The Council also ordered Päijät-Hämeen Puhelin-osuuskunta and Päijät-Hämeen Puhelin to discontinue the abuse of dominant position upon the threat of a FIM 2 million conditional fine. The Competition Council did not impose on the company the FIM 0.5 million infringement fine proposed by the FCA, however.

Although regulation in the telecommunications market has been dismantled in Finland, there has not been much competition in the provision of local telephony services. The ownership discount systems applied by the telephone companies have been considered one obstacle, as these have tied the service users to business relations with local telecom monopolies. In this respect, the pricing of companies in a dominant position has undercut the costs incurred from the service provision, which has blocked the entrants’ business activities. Hence, the Competition Council’s decision described above forms a major stand, which, according to the FCA, obliges other companies using ownership discounts to adjust their conduct. A statement to this effect was sent to the Finnet companies immediately after the Council decision had been issued.

**Mass communications**

In electronic and graphic mass communications, the FCA has recently taken a stand e.g. to the conduct of dominant communications companies considered abuse of dominance. E.g the following major cases have been investigated in the project:

- In January 2000, the FCA made a proposal to the Competition Council on the *Kamera* (Camera) magazine, which the FCA found to have abused its dominant position or at least engaged in a harmful competition restraint when it has refused to publish an advertisement of a mail order company in its magazine. Prior to investigations in the case, however, the Kamera magazine announced that it would publish the advertisements and cancel the publication ban directed at the said magazine. Since the financial effects of the competition restraint could generally be considered minor, the FCA found that the proceedings in the case should be discontinued and withdrew its Council proposal.

- At the same time with the FCA’s above-mentioned proposal, a Competition Council decision was issued wherein a stand was taken to another case involving newspaper advertising. The Council found in favour of the FCA’s proposal regarding the conduct of *Lapin Kansa* in the advertising market of its own publication area. The decision was significant, from a competition policy viewpoint, because for the first time, the Competition Council took a stand therein to the dominant position of a regional newspaper. The Council found in favour of the FCA’s view that the company had, during 1992–97, abused its dominant position in a forbidden manner by applying a tying and discriminatory pricing and discount practice.

According to the FCA’s decision, the discount system in question had unduly placed advertiser-customers in an unequal position with respect to each other and impaired the competitive position of customers who had negotiated less favourable terms. The intransparency of the advertising prices had also prevented customers from comparing different alternatives. The tying terms, which had implied concentration of advertising, had also complicated the operations of competing advertising media.
A major problem, from a competition law perspective, in Lapin Kansa’s case was the definition of the relevant market. The FCA held that the relevant market was comprised of the newspaper advertising market in the publication area of Lapin Kansa, because there are no major media alternatives that are sufficiently interchangeable in Rovaniemi or its near regions. The Competition Council confirmed the FCA’s market definition but did not review the potential abuse of dominance in any more detail because the FCA and Lapin Kansa had already agreed on the adjustment of pricing and the discount system.

- In the January 2000 decision of the FCA, the Lehtikuva picture agency was found to occupy a dominant position in the news picture service market for dailies in Finland and the pricing of the company was previously found unreasonable and discriminatory, hence amounting to abuse of dominance. Lehtikuva had not had a public price list for public news picture services and the company’s customers had not been able to perceive what the price was composed of. The investigations also showed that the prices of news picture service agreements with the same sized distribution had varied considerably without Lehtikuva being able to provide acceptable grounds, from a competition law viewpoint, for the price differences.

  Since, during the investigations, Lehtikuva had acknowledged the proposed shortcomings and sought to develop a new, more transparent and clearer pricing system, its pricing was no longer considered abuse of dominance. The FCA did not take a stand as to what extent the revised pricing system was non-discriminatory and fair to the customers. The imposing of an infringement fine was also considered unnecessary because the financial effects caused by the abuse had, according to the investigations, remained relatively minor.

- Rautakirja (or Lehtipiste, the Press Distribution Division of the Group) was seen, in the FCA’s June 2000 decision, to occupy a dominant position in Finland in the wholesale trade of newspapers and magazines directed at publishers, and the company was found to have applied a condition in the sales of loose copies which could be considered tying, constituting abuse of dominance. The pricing of Rautakirja’s said services was assessed to be intransparent and, hence, the customers could have no clear idea of which factors the fees paid by them were composed of.

  However, since Rautakirja had changed the pricing of its early morning dailies, the FCA found that the conduct could no longer be considered abuse of dominance in this respect. As to what extent the new pricing system was fair and unbinding to the customers, the FCA did not take stand. No proposal for an infringement fine was made in this case either, since Rautakirja had actively contributed to the redressing of the conduct considered an abuse and since the damage caused seemed to remain rather small.

- In postal operations, the FCA’s statement issued in February 2000 supported the licence application of Suomen Suoramainonta and considered it important that the licence be granted to a company competing with Finland Post Ltd on fair and reasonable terms. Last year, the FCA also gave a statement on a Government bill for a Postal Service Act. The FCA e.g. drew attention to a compensation fund planned to be established to safeguard general services in the postal operations, which, according to the FCA’s view, may cause similar obstacles to competition as the current tax-like fee securing the postal operations in sparsely populated areas.
In the finance market, the FCA intervenes with competition restraints whereby incumbents seek to defend their established market positions while the operating environment is internationalising further and the structure of the field changing e.g. as a result of the integration of the finance and insurance market.

In 2000, the FCA continued its investigation of the effects of the amendment of the exchange pricing of the Helsinki Exchanges and began its investigation of the market position of the Finnish Central Securities Depository Ltd and the pricing of its clearing services. Both investigations were completed in the beginning of 2001.

- With respect to the Helsinki Exchanges (HEX), the FCA was requested to investigate whether the amendment of the exchanges fees planned by HEX could be considered an abuse of dominant position under the Competition Act. In its decision, the FCA found that HEX presently occupies a dominant position as an upkeeper and service provider of the public stock trading system in Finland. Following the introduction of the alternative pricing model, the new pricing has not been found discriminatory nor an abuse of dominance. The decision has not been appealed to the Competition Council.

- The position and pricing of Finnish Central Securities Depository Ltd were investigated on the FCA’s own initiative. The relevant decision held that the Finnish Central Securities Depository Ltd occupied a dominant position at least as the provider of clearing services of the public stock trading conducted at HEX in Finland. The FCA also held that the penalty fees collected by the Central Securities Depository from delays in deliveries were discriminatory and did not correspond to actual costs incurred, hence constituting a prohibited abuse of dominance. However, the investigations revealed that the Finnish Central Securities Depository Ltd was not aware of its own dominant position or of the prohibited nature of its penalty fee system. Additionally, the Central Securities Depository has sought to develop its pricing system to be more just and cost-accountable. On the basis of the above, the FCA found that making a proposal to the Competition Council for the imposing of an infringement fine was not justified. According to the decision, the Central Securities Depository shall, by 31 December 2001, eliminate all the restrictive measures collected from delayed deliveries and to supply the FCA with an account of all the changes it has made to the penalty fee system. This decision has also been appealed to the Competition Council.

- The cartel investigations open in the forest project were solved in spring 2000 and the FCA made a proposal to the Competition Council. The Competition Council issued its decision in November 2000. In autumn 2000, the FCA issued its decisions e.g. on the purchasing trade conduct and the price cooperation of forest companies in the import of raw wood. In the following, summaries of these and other major cases investigated in the project:
• On the basis of the FCA’s proposal, the Competition Council imposed a competition infringement fine of FIM 10 million each on the forest industry companies Metsäliitto Osuuskunta, Stora Enso and UPM-Kymmene for the cartel cooperation conducted in the region of Mikkeli during 1993–1997. The cooperation consisted of price negotiations and agreements on purchasing objectives and the exchange of information related to them in so-called follow-up meetings and meetings between the companies held in the regional purchasing districts. The Competition Council found that the parties had also agreed on prices. The FCA had proposed an infringement fine of FIM 20 million each for the companies.

In its decision, the Council held that the three forest industry companies buy the majority of the available raw wood and that, in such a market, cooperation between the buyers is particularly harmful. The Council found that the case was a typical example of forbidden information exchange and its harmful nature could not be unclear. The proceedings on the case are pending at the Supreme Administrative Court.

• At the same time as the cartel decision, the Competition Council made another major decision concerning the wood market. The case concerned the appeal made by MTK, the Central Union of Agricultural Producers and Forest Owners, on the FCA’s refusal to grant an exemption where the Union had requested that an exemption be granted to improve the bargaining position of the wood sellers in relation to forest industry companies.

The Competition Council dismissed the appeal because the negotiation systems and the related competition restraints could not be perceived to promote effective operations on the wood market. On the contrary, the negotiation system had rather slowed down the commencing of the wood trade and to have distorted the price relations between the different types of wood and different regions.

The Competition Council decision also found that the problem in the wood market is its asymmetric market structure and that the operations of the market and the position of the forest owners can best be improved by an efficient application of the Competition Act, by promoting the competitive features in the market and by increasing the commercial information on offer to wood sellers. In practice, the Competition Council’s decision implies the termination of the concentrated negotiation system, which has long continued in Finland.

Both the decisions described above define in a major way the permitted conduct in the raw wood market in Finland. The common feature in the decisions is the Council’s finding that the operations of the wood market cannot be built on competition restraints on either the buyer’s or the seller’s side.

• In the June 2000 decision of the FCA, Metsäliitto Osuuskunta and UPM-Kymmene were found guilty of a forbidden bidding cartel in a tender arranged in the Seinäjoki region. Due to the lack of adequate information, the FCA found that an individual violation did not constitute sufficient grounds to make a proposal to the Competition Council on the imposing of an infringement fine.

• The FCA had also been asked to investigate whether the raw wood purchasing measures of the three main forest companies Metsäliitto Osuuskunta, Stora Enso and UPM-Kymmene contain features which may be considered abuse of dominance or other forbidden or harmful competition restraint. The grounds for the complaint were that the forest companies were found to favour standing trade in their wood purchases, where the price of the raw wood material and the felling costs are tied together.
However, the FCA did not find that the companies had turned down business by delivery contracts or used measures which were unfounded or had equalled a denial. Appropriate efficiency criteria had also been presented for the purchasing methods used by the companies. They were not found to occupy a dominant position either jointly or separately in the purchase or felling of raw wood, nor was evidence provided for standing trade as a trade practice causing harmful effects for economic competition as referred to in the Competition Act.

In its decision of July 2000, the FCA pointed out, however, that conducting business by delivery contracts increases the competitiveness of the markets by preserving the operating possibilities of small and medium-sized operators and hence improving diversity and freedom of choice in the market. The complainant Ekometsätalouden liitto (Association of Ecological Forest Economy) has appealed the decision to the Competition Council.

- In 2000, the FCA investigated the price cooperation of the above-mentioned forest companies in the import of raw wood from Russia. According to the complaint, the companies had agreed with Russian sellers to decrease the prices of birch fibre wood. The FCA held that the matter did not fall within its jurisdiction because it involved price cooperation carried out in the region of the Russian state where the other parties were Russian wood sellers and because the direct harmful effects of the conduct to competition were primarily felt on the Russian market. The price negotiations conducted were not found to have restrictive effects on the Finnish market. The import of raw wood in itself was seen to increase the supply of wood and, hence, competition in Finland.

The FCA seeks to focus investigations on the operations of industrial companies in fields where companies from the seller or buyer side occupy a dominant position, where the market structure is otherwise concentrated or where possibilities for entry to the field or operating therein have been limited due to public regulation. The major competition restraints cases lately investigated have been related to the foodstuff industry and particularly the cooperation arrangements and discount systems therein.

In trade, the FCA investigated e.g. the RPM related to the reform of the K Group’s chain operations and the exemption application for horizontal cooperation by the S Group. To secure the comprehensive assessment of the daily consumer goods market and the equal treatment of customers, the applications were reviewed in close parallel. The objectives included the prevention of the trade’s buying power and its abuse and the promotion of efficient competition in the sales and distribution chains of the daily consumer goods trade. The decisions in both cases were given in January 2001.

The chain-like operations themselves were estimated to be efficient but the concentrated market structure was seen to create buying power which could eliminate the advantages brought
by competition. With its decisions, the FCA wanted to secure intra-group competition and the access of manufacturers to distribution channels, to safeguard the survival of alternative logistical systems and, by limiting the maximum duration of the pricing periods, to prevent an unnecessary stiffening of pricing.

Since it was estimated that major changes were likely in the market of daily consumer goods, the period of validity of the exemptions was ordered shorter than what had been sought. Conditions were also imposed on both exemptions, with the aim of securing that the retail level would retain the possibility to use their own competitive methods and to tender the own chain organisation. The conditions were aimed at suppliers having the possibility to sell their products to the trade, past the chain organisation.

The above-mentioned exemption decisions are line decisions where the principles cited shall be referred to when reviewing corresponding exemption applications.

In traffic, the FCA has recently focused on goods traffic and the cooperation arrangements and cooperation service arrangements of transport companies, transport service buyers and the companies providing various services therein. In passenger transport, public regulation has been found a central problem; it prevents the creation of new alternative mass transport service solutions and price competition. The reform and development projects in the field are therefore actively followed.

In environmental protection, the expansion of producer responsibility has increased horizontal cooperation between producers and strengthened the position of different producer communities, in addition to which the new severe sorting and handling provisions have increased costs and concentration in transport and handling services as well. Due to this, the FCA has received complaints about entry barriers, unreasonable terms in the recycling systems and handling services and the enclosure of competition in the utilisation and transport of waste. Some of the competitive distortions are also caused by public regulation.

One example of the competitive distortions caused by public regulation is the beverage tax system. Gaining access to the recycling systems of packages has proved problematic, and it has been heightened by the impossibility of any one company to arrange an extensive recycling system. The FCA has proposed that companies engaging in minor packaging operations be freed from the tax because the profits from the packaging tax have not been directed at redressing the damages caused to the environment by the packages and because the tax prevents small packagers from entering the market. Even though the producer responsibility is similar with respect to all packages, one group of products (beverage packages) is treated more severely than others. Additionally, the packaging tax distorts competition between the different beverages because the content of the package has a decisive influence on the tax treatment.
In the service sector, the FCA’s investigations have recently concerned lottery operations, various maintenance and property services and, in addition to accommodation and catering services, increasingly also training and recreational, cultural and sports activities.

With respect to the business operations of the state and the municipalities, the FCA proposed in its initiative to the Ministry of Trade and Industry in May 2000 that the Ministry would start negotiations with the Ministry of Finance to redress the competitive distortions caused by value added tax. The initiative was based on business undertakings in different sectors complaining to the FCA about the competitive problems involved with value added tax. Competitive problems have been created e.g. in the production of food, health care, training and social services.

Corresponding competition concerns may appear in all the fields where some business undertakings are able to sell their services duty-free on the basis on the Value Added Tax Act. In its initiative, the FCA found that the municipalities’ own production units and private companies producing supplementary services related to the duty-free service production of the municipalities shall either both sell their services with or without the value-added tax.
Control of concentrations

- The objective of the control of concentrations is to protect the market from concentration resulting from mergers and acquisitions. The FCA assesses concentrations according to their domestic effects and also pays attention to the future development of the markets. The FCA intervenes with a concentration, if, as a result of it, a dominant position is created or strengthened which significantly impedes competition in Finland.

Since the control of concentrations began at the FCA, i.e. following October 1998, the FCA has examined more than 300 concentration cases altogether and made approximately 200 decisions. In 2000, 14 conditional decisions were made, and, in addition, one proposal to ban a concentration.

Since early 2000, the FCA has intervened with the following concentration cases:

<table>
<thead>
<tr>
<th>Parties to the concentration</th>
<th>Date of decision</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fritidsresor Holding Ab /</td>
<td>5 April 2000, dno 1076/81/1999</td>
</tr>
<tr>
<td>Oy Finnmatkat-Finntours Ab</td>
<td></td>
</tr>
<tr>
<td>Säkkiväline Puhtaanapito Oy /</td>
<td>10 April 2000, dno 49/81/2000</td>
</tr>
<tr>
<td>WM Ymparistopalvelut Oy</td>
<td></td>
</tr>
<tr>
<td>Helsingin Puhelin plc /</td>
<td>27 April 2000, dno 1056/81/1999</td>
</tr>
<tr>
<td>Tampereen Puhelin plc,</td>
<td></td>
</tr>
<tr>
<td>Keski-Suomen Puhelin plc,</td>
<td></td>
</tr>
<tr>
<td>Oy Finnet International Ab</td>
<td></td>
</tr>
<tr>
<td>Valio Oy / Kainuun Osuusmeijeri,</td>
<td>20 June 2000, dno 1151/81/1999</td>
</tr>
<tr>
<td>Osuuskunta Maito-Pirkka, Aito-Maito Fin Oy</td>
<td></td>
</tr>
<tr>
<td>Sonera plc / Yleisradio Oy,</td>
<td>FCA's proposal to ban the concentration of 17 April 2000, dno 1010/81/1999 and the Competition Council's conditional decision of 10 July 2000, dno 53/690/2000.</td>
</tr>
<tr>
<td>Digita Oy</td>
<td></td>
</tr>
<tr>
<td>EQT Scandinavia Ltd / Rosenlew Retail Products</td>
<td>3 November 2000, dno 565/81/2000</td>
</tr>
<tr>
<td>Finnlines plc / Transfennica Oy</td>
<td>Acquisition cancelled after negotiations on a package of commitments with the FCA in December 2000.</td>
</tr>
<tr>
<td>Finland Post Ltd / Atkos Printmail Oy</td>
<td>2 February 2001, dno 2/81/2001</td>
</tr>
</tbody>
</table>

28
In the following, descriptions of the above-mentioned cases:

- **Fritidsresor Holding Ab / Oy Finnmatkat-Fintours Ab**: On 10 December 1999, Finnair and Fritidsresor of the British Thomson Travel Group agreed on the sales of Finnmatkat and the related business activities to Fritidsresor. After the acquisition, there are three major tour operators arranging package tours in the Finnish market: Finnair (Aurinkomatkat, Top Club, Etumatkat), the Thomson Group (Fritidsresor, Hasse, Tema Tours, Finnmatkat) and the Air-tours Group (Tjäreborg, Spies). The joint market share of the two first groups exceeds 70 per cent and that of Airtours amounts to approximately 15 per cent.

   In the context of the acquisition, the parties made a cooperation agreement under which Fritidsresor undertook to obtain the flights needed by Fritidsresor, Hasse, Tema Tours and Finnmatkat from Finnair. The high market share jointly obtained by Fritidsresor and Finnair and the agreement on flights concluded in the context of the acquisition led, combined with other factors, to a creation of a joint dominance in the package tour market.

   In the negotiations with the FCA, Fritidsresor and Finnair undertook to rephrase the agreement on chartered flights so as to the exclusive purchasing clause only concerning the need for flight seats corresponding to the present capacity of Finnmatkat. Additionally, the parties undertook to shorten the period of validity of the agreement. The conditions imposed on the acquisition also contained a commitment to an equal treatment of tour operators.

   The commitments were sufficient to remove the major competitive problems related to the joint dominance of Fritidsresor and Finnair in the package tour market. In its decision, the FCA found that Finnair and Fritidsresor’s abandoning of the exclusive purchasing clause improves the possibilities of the new charter company to enter the Finnish package tour market. After the transition period, shortening the period of validity will expose Finnmatkat’s flight capacity need to competition. The FCA also held that the commitments ensure the equal opportunities of other tour operators to obtain flight capacity from Finnair.

- **Säkkiväline Puhtaanapito Oy / WM Ympäristöpalvelut Oy**: In early 2000, Säkkiväline Puhtaanapito Oy part of the Lassila & Tikanoja Group acquired the entire stock capital of WM Ympäristöpalvelut Oy. The American Waste Management Inc. sought to close part of its business in Europe and the acquisition formed a part of the strategy.

   Through the acquisition, Säkkiväline became the market leader of comprehensive environmental management services in Finland, measured by turnover, geographical coverage and range of services. The FCA investigated the competitive effects of the acquisition in the markets of community and industrial waste management, sewer maintenance, industrial cleaning and maintenance, construction waste, recycling based on producer responsibility and hazardous waste management.

   Although the concentration gained a considerable market share in various markets, the FCA had no cause to intervene with the acquisition in other respects than hazardous waste. The concentration did not cause other major competitive problems, because entry barriers were low and e.g. the expansion of the market related to recycling increases the competitors’ incentives to enter the market.

   In hazardous waste management, the competitive problems are caused e.g. by the possibility of the concentration to package the different products within its range of services. Competitors operating with a narrower selection of services cannot meet the competition. The position of the concentration in the small-scale collection of hazardous waste is further
strengthened by the concentration being the holder of eight of the 11 regional exclusive rights agreements regarding lubricant waste. The regional collectors are paid a collection fee from the funds accrued on the basis of the Oil Waste Payment Act and they can also collect the oil waste free of charge from the producer, which provides them with a major competitive advantage in the collection of other hazardous waste.

In the commitments provided by Säkkiväline, it announced it would divest the collection of hazardous waste of the other party in specific overlapping operating areas and give up four regional exclusive rights agreements on the collection of lubricant waste. In addition, Säkkiväline and its Group undertook not to tie the prices or other terms of trade of hazardous waste management services (the collection services of lubricant waste included) to the purchase of other services by the customer from Säkkiväline.

The sales of the business operations boost the competitive position of the competitors or may provide a foothold to a whole new collector. The effect of the sales was increased by Säkkiväline’s commitment to divest some of the collection agreements of lubricant waste. This removed a particular competitive advantage and improved the competitors’ possibilities to create competitive pressure with regard to the concentration. The behavioural commitments support the possibilities of competitors operating on a narrower range of services to develop models which compete with the concentration e.g. in managing the entire accounts of large companies. In its decision, the FCA found that the commitments were sufficient to remove the major competitive problems.

- **Helsingin Puhelin plc (present Elisa Communications), Tampereen Puhelin plc, Keski-Suomen Puhelin plc and Oy Finnet International Ab**: Helsingin Puhelin (hereinafter HPY) announced in December 1999 that it had acquired control in Tampereen Puhelin (TPO), Keski-Suomen Puhelin (KSP) and Oy Finnet International Ab (FNI) through a stock exchange deal made through the exchanges.

  It is the nature of the telecommunications market that many telecom and network services are vertically integrated. An operator governing the fixed telecom network and the fixed connections, in particular, may affect the operations of many markets, which are separate as such. A company engaging in local telecom operations may affect e.g. the markets of distant or foreign calls or the Internet services, as the provision of these is also related to the use of the local telecom network. For these reasons, the assessment of the market position of the concentration was not limited to just one market at a time.

  By acquiring control in FNI, HPY integrated to the wholesale and retail market of foreign telecom services, as a result of which the Finnet companies are both customers of the HPY group and its actual or potential competitors. Through the acquisition, it became possible for HPY to adjust the conduct of FNI in favour of its own business operations. In its pricing or other terms of trade, it may favour Finnet companies which do not aggressively compete with it for major retail customers. Additionally, FNI may e.g. offer inexpensive foreign calls to the major companies which acquire from HPY the national calls within the single operator’s network, or mobile connections and services for company customers, and collect from the Finnet companies higher wholesale prices. This may impair the Finnet companies’ ability to compete on the market segment of large company customers.

  During further proceedings in the case, HPY presented the following commitments to the FCA:
• A minimum of two members shall be appointed to FNI’s board of directors by shareholders other than HPY or the Finnet companies.

• HPY shall retain the terms of FNI’s representation, distribution and retail agreements with respect to pricing and structure of compensations. This commitment is effective for two years from the approval of the acquisition.

• HPY shall report to the FCA the realisation of point 2 each year for two years.

• Additionally, HPY found that there is no impediment to Finnet companies starting to develop and offer products which compete with FNI.

The commitments ensure that the concentration does not affect the competitive conditions in the wholesale market of foreign calls for two years. According to the FCA’s estimate, the Finnet companies have the possibility to establish a foreign operator competing with FNI within two years or negotiate on cooperation with an incumbent operator if the threat arises that the terms of agreement applied by FNI weaken their possibilities to compete e.g. in the markets of large companies. In its decision, the FCA found that the commitments provided by HPY removed the doubts about the competition concerns arising as a result of the acquisition and the FCA was thus able to accept the arrangement.

• Valio Oy / Kainuun Osuusmeijeri, Osuuskunta Maito-Pirkka, Aito-Maito Fin Oy: By agreements concluded in January 2000, Valio leased from Maito-Pirkka and Kainuun Osuusmeijeri all the properties, machinery and equipment related to refinement and marketing. After the lease period had terminated, the objects of lease transfer to Valio’s ownership. Additionally, Valio purchased from Maito-Pirkka and Kainuun Osuusmeijeri the movable fixed and capital assets. All the staff of the processing operations of Maito-Pirkka and Kainuun Osuusmeijeri and Aito Maito’s marketing and distribution became Valio’s employees. The main brands ‘Aito’ and ‘Into’ also transferred to Valio.

The FCA assessed the effects of the acquisition in over 20 product markets and found that the concentration resulted in the creation or strengthening of a dominant position in several of them. The main competitive problems were related to the purchase of raw milk and its deliveries to the producers of upgraded products; the trade of standardised or skimmed milk and raw cream; the trade of liquid dairy products (milk, sour milk, cream and sour whole milk) and the manufacture of domestic milk powder.

Valio’s market share in liquid dairy products, where it had already been found to occupy a dominant position, would have increased from approximately 60 per cent to over 70 per cent. The market share of the concentration would also have been significant with respect to standardised milk, skimmed milk and deliveries of raw cream.

The market share of the concentration in milk powders would have been approximately 60 per cent. The geographical markets of milk powders are usually considered European wide at the minimum. However, the FCA found that the rules of the ‘Joutsenlippu’ brand showing the degree of domesticity of foodstuffs lead to separate markets for domestic milk powders, as the milk used in a Joutsenlippu product shall be entirely of Finnish origin.

As a result of the concentration, the share of the Valio Group in the purchase of raw milk from producers would have risen to approximately 80 per cent. This would have strengthened Valio’s position on all the dairy product markets. In the assessment of whether the concentration could be accepted, a central issue was how the purchase of raw material by Valio’s competitors could be secured.

---

1 Supreme Administrative Court 11 November 1998, dno 2,482/1/1997
After negotiations between the FCA and Valio, the FCA imposed e.g. the following conditions on the acquisition:

- Valio’s competitors may purchase from Valio an annual maximum of 150 million litres of raw milk. The milk may also be purchased skimmed, standardised or as cream. The sales price of raw milk equals the average purchase price of Valio’s own dairy industry.
- Valio shall sell the ‘Aito’ and ‘Into’ brands owned by the Aito Maito Group to a competitor.
- Valio shall make export purchases of raw milk referred to in point 1 or of refined products on the basis of market prices and reasonably non-discriminatory export costs.
- Valio agrees to offer the production plants under the threat of closure or the related equipment for sale without any restrictions on use.
- Valio agrees to offer logistical services to competitors.
- Valio offers dairy processing and packaging services for the products referred to in point 1.
- Valio agrees to sell to domestic customers all the usual domestic milk powder brands manufactured by Valio at the market prices of the EU area.
- An independent expert approved by the FCA shall be appointed to monitor the following of the commitments. The expert shall make a proposal for a decision in case of a possible conflict.

Due to the special features of the milk market, the usual terms of acquisition, e.g. the sales of production plants, would not have replaced the decrease in competition caused by the Aito Maito Group joining Valio. The main obstacle to competition encountered by the Valio Group is the availability of raw milk and not production capacity. The Valio Group obtains the raw milk from co-operatives, who, in turn, purchase the raw milk from their producer members. The cooperatives and producers are not parties to the acquisition, however, so it was not possible to oblige them to deliver milk to Valio’s competitors.

Milk producers can transfer from one cooperative to another. This decreases the interest of Valio’s competitors to make agreements with cooperatives, which are threatened by the move of producers to other cooperatives. In the assessment of the acquisition, the accounts given by Kainuun Osuusmeijeri and Maito-Pirkka about producer transfers and the statements heard by the FCA about the operating possibilities of the dairies possibly to be dissolved from the Valio Group were taken into consideration.

For these reasons, the transfer of raw milk to Valio’s competitors was carried out with Valio’s commitment to sell raw milk at Valio’s own purchase price to the actual and potential competitors in the domestic market. Hence, Valio’s competitors are able to balance out the decreased competition caused by the acquisition in the liquid milk market. Because fat is also created in the refinement process, Valio’s competitors are able to replace the competitive pressure produced by the Aito Maito Group in the market of butter and other fatty products.

- Sonera plc / Yleisradio Oy, Digita Oy: On 19 April 2000, the FCA proposed to the Competition Council that it forbid Sonera’s acquisition of joint control in Digita, the subsidiary of the Finnish Broadcasting Company (FBC). The FCA found that, in the market of 1) the digitalised public broadcasting network’s technical services, 2) the public broadcasting network’s transmission services, 3) mobile communications services, 4) digital network service systems, 5) Sonera’s local subscriber connection network services and 5) Sonera’s regional
cable network services, the acquisition will lead to the creation or strengthening of a dominant position which significantly impedes competition in Finland or major parts thereof.

According to the FCA’s estimate, the acquisition would have had major exclusionary effects and protected Digita and Sonera’s dominant position from competition. The FCA found intervening with the acquisition important for safeguarding competition because the public broadcasting network extending to every household shall, in a few year’s time, function as an important distribution and reception channel of new Internet type content services, in addition to the basic transmission of television and radio programmes. Additionally, the convergence trend will lead to a flexible parallel and cross use of different digital networks being a major competitive factor.

The competitive problems of the acquisition were due to the market power of the parties, in particular, which is attested by the extremely high market shares in the following, closely connected markets:

- transmission services of Digita’s public broadcasting network: 100 per cent
- Sonera’s mobile services: 65 per cent
- Sonera’s Internet connection services: 40 per cent
- Sonera’s data transmission services: approximately 50 per cent
- Sonera’s trunk network services: particularly high market share (exact information a business secret)
- Sonera’s local subscriber connection network market: over 90 per cent
- cable network market located on an overlapping regional market with Sonera’s subscriber connection market: 100 per cent
- Sonera’s share of the turnover in the entire field of Finnish telecommunications: approximately 50 per cent.

As a result of the acquisition, the various content distribution channels and customer connections having the largest clientele would have concentrated on the same Group. The acquisition would have led to a situation where Sonera and Digita’s transmission networks would no longer have been competing alternatives to content producers and consumers.

According to the FCA’s estimate, the acquisition would have provided Sonera with unique competitive advantages. As a result of the acquisition, Sonera would have become a supreme multi network operator in Finland and obtained a permanent head start over its competitors in product and service development. Additionally, Sonera would have benefited from the strong position of FBC, Digita’s joint owner, in the supply of television and radio programmes, particularly since the digital television operations shall commence in the bundle of channels owned by FBC and since the company is the only one who currently has the right to national digital radio operations in Finland.

In its assessment of Sonera’s increased market power, the FCA paid attention to Digita being indispensable in the development, fitting and testing of the technical solutions and new content services of the digitalised public broadcasting network. Sonera’s position would have been further strengthened by Digita’s distribution system being able to affect the service concepts realised in the network. Hence, the acquisition would have led to Sonera being able, with Digita’s aid, to affect the competitive possibilities of other incumbents in the operating environment of digital television and radio. In its proposal, the FCA found that the possibilities to develop the field would appreciably improve if Digita could cooperate more equally with several operators, and resources would not be heavily concentrated through the acquisition.
The FCA concluded several negotiations with the parties on the commitments on the basis of which the acquisition could have been conditionally approved. The proposals of the parties left so many of the above-mentioned competitive problems open, however, that the conditional approval of the acquisition was not possible.

On 10 July 2000, the Competition Council conditionally approved the concentration. Departing from the commitments originally offered by the parties, the Council imposed on Sonera e.g. an obligation to refrain from seeking a licence for digital television broadcasts. In the beginning of August 2000, Sonera announced that it would not acquire control in Digita and that it would reserve the right to obtain a licence.

- **EQT Scandinavia Ltd / Rosenlew Retail Products**: EQT Scandinavia Ltd and JD Stenqvist AB part of its Group purchased, in the summer of 2000, from UPM-Kymmene plc its Rosenlew Retail Products business unit, which manufactures e.g. paper and plastic bags for the retail trade and paper bags for industrial use and other consumer packages. By the arrangement, UPM-Kymmene plc sought to concentrate on its actual core business operations. After the acquisition, JD Stenqvist AB became the biggest company in the field in Finland or the Nordic countries, measured by turnover, geographical coverage and range of services.

  The FCA intervened with the concentration only with respect to the market of block bottom paper bags manufactured for industrial use, although the concentration achieves a considerable market share on some other markets as well, such as the production of paper bags. However, the concentration did not cause major competition concerns in this respect, because the customers may replace the paper bags with plastic ones, and their markets are not as concentrated as those of paper bags.

  According to the investigations, the parties achieved a considerable market share in the market of block bottom paper bags, such as flour, sugar and animal food bags. In these markets, the major market share of the parties is combined with other factors producing market power; e.g. financial and productional strength and the lack of potential competition and import.

  In a situation where the domestic total market is not very large but where, to achieve optimal production efficiency, each type of bag must have its own production equipment, entry barriers threaten to become so high that the arrangement could have even resulted in the closure of the market. This possibility was seen to increase by the maturity of the market weakening the incentives of foreign companies to enter the field. In addition to one domestic competitor, Stenqvist is left with a few competitors in the Nordic countries. Due to reasons related to logistical total efficiency, import from countries which are located further away is often an unrealistic option for smaller market operators, in particular. Hence, the FCA found that the concentration leads to the creation of dominant position significantly impeding competition in the said market.

  EQT Scandinavia Ltd and JD Stenqvist AB proposed commitments to the FCA to remove the competitive problems. They undertook not to acquire control or other major minority share in a company operating in the market of block bottom paper bags in Finland and not to set their own representatives in the board of directors of such companies. Secondly, Stenqvist undertook not to include non-competition clauses, sole right or other tying, restrictive terms in its agreements related to the said business in the Finnish markets and, to the extent that its present agreements contain such terms, not to appeal to them. Thirdly, Stenqvist undertook to deliver block bottom bags manufactured from paper to customers operating in the Finnish markets under the present terms, price excluded, or, from the viewpoint of the customer, on more inexpensive terms than before.
In its decision, the FCA held that the exchange value of the said market is small and the harmful competition concerns are directed at a limited number of other market operators, who are well aware of the competitive scene created as a result of the concentration. The factors determining the structure of the field were not estimated to contain features which would permanently prevent other market operators from adopting operating strategies balancing the market power of the governing company in the long run. Terms of market behaviour, which ensure other operators a sufficient adaptation period, were still seen as inevitable conditions for the approval of the concentration.

- **Finnlines plc / Transfennica Oy**: Finnlines notified to the FCA its planned acquisition of the entire stock capital of Transfennica from UPM-Kymmene plc, Metsä-Serla plc, Myllykoski plc and Oy Metsä-Botnia Ab by an agreement concluded in June 2000. The selling companies have also been major customers of Transfennica.

  The FCA did not make a decision containing a detailed analysis, as the parties cancelled the acquisition after negotiations on a package of commitments conducted with the office. The estimates that follow are based on the FCA’s September 2000 decision on the commencement of further proceedings.

  Finnlines’ business divisions include sea transports and port services. The company is a liner shipping company specialising in freight transports, with principal operations in the Baltic and the North Sea. Finnlines’ route network covers all the major ports in Finland and approximately 20 ports abroad. In 1999, approximately 66 vessels were in service. The majority of the vessels are roro freight vessels and ropax (freight-passenger) vessels. Finnlines offers port services and related information services in Helsinki, Turku and Naantali.

  Transfennica specialises in the sea transports of forest industry products, which has approximately 20 roro vessels in its use. The vessels of Transfennica deliver e.g. paper from Finland to the major ports of Northern and Western Europe.

  According to Finnlines, the relevant product market is comprised of the sea transports of goods carried in large consignments in the routes between Finland and various European transport areas. Goods carried in large consignments refer to goods which are transported or may be transported in the freight unit, which include e.g. trailers, containers and various platforms. The transport areas in question are the German coast, the Polish coast, Scandinavia, the British Isles, the Benelux Countries and the Bay of Biscay. According to the notifier, roro linear traffic conducted by the parties competes with transports conducted as nonlinear traffic and with transport specialising in container shipping. The notifier finds that road transports are also a major competitor of roro linear traffic.

  However, the market definition of the notifier could not be accepted as a basis of the assessment of the competitive effects of the concentration. The FCA held that, from the customer’s perspective, container traffic does not replace roro traffic because the roro vessels’ ability to load and unload moving trailers cannot be utilised therein. The FCA found in its investigations that the shipping companies specialising in the use of trailer traffic should adjust their shipping systems to be able to use containers in their transports. Major differences between containers and trailers were also found in the loading and unloading of goods. Additionally, many consignees in the southbound traffic do not have the necessary docks for the unloading of goods. Container traffic was also found cheaper than roro traffic. Road transports to Central Europe are much more expensive than both forms of sea transports. E.g. for these reasons, the FCA came to the conclusion in its initial estimate that the roro linear traffic should be separated from container traffic as its own relevant product market.
The preliminary estimate of the geographical market was that the German Baltic Sea traffic, the German North Sea traffic, the Benelux Countries’ traffic, the British Isles’ traffic, the Bay of Biscay traffic and the Polish traffic each formed their own market further divided into southbound and northbound traffic.

In its preliminary estimate, the FCA held that the concentration was likely to lead to the creation of a dominant position in the market thus defined. The market shares of the concentration would have been extremely high in most transport areas, particularly in the traffic between Finland and Germany’s Baltic Sea ports. The assessment also considered the long-term freight agreements of the concentration, which ensured a certain freight volume, and the frequent schedules of Finnlines and Transfennica, their numerous routes and the operations of Finnlines as a producer of port services.

- **Carlsberg A/S / Orkla ASA:** Carlsberg founded Carlsberg Breweries A/S and, with a contract dated May 2000, 40 per cent of its shares to the Norwegian Orkla ASA. In the arrangement, Orkla transferred the Pripps Ringnes Ab Group to Carlsberg Breweries as well as the shares of Baltic Beverages Holding Ab (BBH) owned by Pripps Ringnes. I.e. parties to the transaction agreed on the merging of their brewery operations under the name of a new company called Carlsberg Breweries A/S, of whose shares Carlsberg owns 60 per cent and Orkla 40 per cent. The acquisition was approved conditionally in January 2001.

Without the conditions stipulated in the decision made by the FCA, the merger would have resulted in powerful links between the two leading competitors in the Finnish markets, namely Hartwall and Sinebrychoff, and led to a situation where these companies would have obtained joint dominance in Finland’s beer, cider, long-drink and soft-drink markets. Sinebrychoff and Hartwall’s combined market shares regarding beers and ciders are just below 90 per cent, in long drinks over 90 per cent, and in soft drinks and mineral waters approximately 75 per cent.

The principal approval condition for the transaction was that Orkla renounces its Hartwall shares and does not appoint any representatives to the board of directors of Hartwall nor to other company bodies. However, this alone was not enough to eliminate the competition concerns caused by the transaction, because Carlsberg and Hartwall would still retain a close connection with one another via their joint ownership of Baltic Beverages Holding (BBH) operating on the fast-growing Baltic and Russian markets. Additional conditions were therefore included in the decision with the purpose of preventing the naming of the same persons to the board of directors and executive positions in Sinebrychoff and BBH. The aim in doing so is to hinder the transfer of information on competitive conduct between Hartwall and Sinebrychoff.

Furthermore, the conditions stipulate on decision-making procedures in certain matters connected to BBH. Should Carlsberg and Hartwall disagree on certain investments or the distribution of profits at BBH, Carlsberg shall, for its part, submit the matter to an independent trustee approved by the FCA. This is intended to prevent Carlsberg from acting in BBH in a way likely to induce Hartwall to hold back from competition in the Finnish markets.

Furthermore, the decision includes a condition whereby Carlsberg undertakes to see to it that AB Pripps Bryggerier terminates its distribution agreement with Hartwall regarding the beer Lapin Kulta in Sweden, terminates its import agreement with Hartwall regarding importing of Ramlösa to Finland, and terminates its licence agreement with Hartwall regarding the soft drink Pommac. Additionally, Carlsberg undertakes to terminate its agreement with Hartwall on the licence-based production of Tuborg.
In case the parties to the transaction fail to fulfil these commitments, Carlsberg is required in the decision either to sell its Sinebrychoff shares or alternatively to implement such an arrangement as will result in the companies belonging to either the Carlsberg or Hartwall Groups not owning shares in BBH. The purpose behind this condition is to ensure that Carlsberg and Orkla fulfil their commitments. The fulfilment of the commitments is monitored by an independent trustee, whose appointing, rights and tasks have been set out in the decision.

Decisions concerning the merger of Carlsberg and Orkla were previously issued in December 2000 by the competition authorities of Sweden and Norway. In Sweden, Carlsberg undertook to give up some of its trademarks and to terminate its co-operation with the Coca-Cola Company of Sweden. In Norway, too, Carlsberg undertook to terminate its co-operation with Coca-Cola.

- **Georgia-Pacific Corporation / Fort James Corporation**: In July 2000, Georgia-Pacific Corporation and Fort James Corporation signed an agreement with the aim of merging Fort James Corporation into the existing tissue production of Georgia-Pacific Corporation.

  The Georgia-Pacific Corporation (GP) is an American Group, which manufactures and delivers e.g. building materials, paper and pulp. To the Finnish tissue market GP delivers hygienic control dispensing systems.

  The Fort James Corporation (FJ) is likewise an American Group, which manufactures and delivers e.g. bathroom and tissue products to consumers for ‘away from home’ purposes. FJ manufactures and sells tissue products to the Finnish market and currently has production facilities in the Finnish cities of Nokia and Ikaalinen. The company is known in Finland for its Embo, Emilia, Nessu and Luonnontyötävää brands.

  As a result of mutual arrangements between GP and its Finnish main competitor Metsä-Tissue, such major links were formed between GP and Metsä-Tissue that they could not be perceived to exist in a normal competitive situation with each other. The FCA found that the cooperation arrangements could lead to the creation of joint dominance for GP and Metsä-Tissue. The companies’ joint market share in several segments of the Finnish tissue market is extremely high, 85–100 per cent.

  The above-mentioned companies have cooperated particularly with respect to dispensing systems and the related products in the European market. In practice, this has meant cooperation in product development, marketing, sales and strategy within the joint venture of GP and Metsä-Tissue.

- **Suomen Posti Oy / Atkos Printmail Oy**: In January 2001, Finland Post Ltd notified a concentration to the FCA, where Atkos Printmail offering e.g. printing, mailing and direct marketing services to customers transfers from the previous joint control of Finland Post and TietoEnator plc to the sole control of Finland Post. The concentration was approved conditionally in February 2001 during stage I proceedings.

  The eLetter offered by Finland Post and the printing and mailing services of Atkos Printmail correspond to each other, with the exception that the eLetter service of Finland Post also contains the delivery of the letters to the recipient.

  Finland Post enjoys a monopoly position in the distribution of addressed mail deliveries in Finland and Atkos Printmail has considerable market power in the printing and mailing services. In its decision, the FCA found that, through the acquisition, Finland Post obtains the possibility to cross-subsidise the competitive parts of the eLetter service such as printing and mailing. With possible cross-subsidisation and discriminatory distribution terms, Fin-
land Post may favour Atkos Printmail in the future, at the expense of its competitors. As a result of the concentration, Finland Post is also able to package pricing and joint marketing and hence to complicate the entry of new competitors into the market.

It was an approval condition for the transaction that Finland Post retain Atkos Printmail as a separate subsidiary and not transfer the current business operations to Finland Post. In addition, a condition was included in the decision whereby Finland Post undertook to offer the distribution service of a corresponding product to the eLetter on general, equal, non-discriminatory and transparent terms to outside companies as well as companies part of the Finland Post Group. The commitments were aimed at decreasing the risk of cross subsidisation born as a result of the concentration.

- Metsäliitto Osuuskunta / Vapo Oy: In March 2001, the FCA conditionally approved a concentration whereby Vapo Oy transfers from the state’s control to the joint control of the state and Metsäliitto Osuuskunta. A central condition for the approval of the transaction was that the parties partially divest the business activities related to wood based fuels (sawdust, bark and industrial wood residues and forest residues). Additionally, the conditions include some behavioural commitments set on the parties and conditions related to the supervision of their implementation.

  The starting point of the investigation was that the Vapo conglomerate holds a dominant position in the energy peat market and that it is active in the wood based fuel market. Biowatti Oy, a nationwide bio energy company and also a subsidiary of the Finnish forest industry enterprise Metsäliitto, specialises in wood based fuels. In practice, wood based fuels are the sole energy form competing with peat and they are used particularly in the production of heat and energy by the industry. The share of Metsäliitto of the approximately 6.4 TWh wood based fuel market is approximately 30 per cent and the share of Vapo approximately 20 per cent.

  If conditions had not been imposed, the concentration would have led to the strengthening of a dominant position significantly impeding competition in the peat market and the creation of a dominant position in the wood based fuel market. The central condition for the approval of the concentration was that, in practice, Vapo divests all of its raw material purchases for wood fuels and wood based fuel deliveries from outside the Vapo Group in Finland. Metsäliitto undertakes to divest some of Biowatti’s wood fuel delivery agreements with customers outside of the Vapo Group and some of the raw material supply agreements for wood fuels from outside the Vapo Group.

  The functions to be divested from the concentration form a viable, competitive and regionally extensive business entity, whose share of the total market of wood based fuels is 20–40 per cent. The acquirer of the business activities shall be independent of the parties of the transaction and shall have the necessary financial and other resources. The acquirer shall be approved by the FCA, and an independent trustee shall be appointed to monitor the implementation of the conditions.

  The behavioural commitments are aimed at limiting the parties’ possibilities to artificially connect the purchases of energy peat and wood based fuels, on the one hand, and wood based fuels and raw material procurements, on the other.

  The European Commission transferred the examination of the concentration by its decision of 8 February 2001 to the FCA as regards the above-mentioned markets. On the same day, the Commission approved the acquisition of raw wood procurement and sawn timber.
Issues examined in the control of concentrations in 2000 (figures from 1999 in parenthesis):

<table>
<thead>
<tr>
<th>Total no of decisions</th>
<th>Pending notifications 31 December 2000</th>
<th>Pending prenotifications 31 December 2000</th>
<th>Cancelled prenotifications</th>
<th>Other closed issues</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>114 (81)</td>
<td>9 (7)</td>
<td>10 (13)</td>
<td>27 (18)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>35 (25)</td>
</tr>
</tbody>
</table>

Decisions made in the control of concentrations in 2000 by the type of decision (figures from 1999 in parenthesis):

- Proposal to ban 1 (0)
- Approved conditionally 5 (5)
- Approved as such during Stage II 1 (1)
- Approved as such during Stage I 103 (74)
- Other merger decisions 4 (1)

Decisions made in 2000 by the type of concentration (figures from 1999 in parenthesis):

- Acquisition of control 60 (41)
- Acquisition of business operations 43 (33)
- Merger 3 (1)
- Joint venture 8 (6)

Nationality of the parties in decisions made in 2000 (figures from 1999 in parenthesis):

- All parties Finnish 49 (26)
- All parties foreign 40 (32)
- Minimum of one foreign party 25 (23)

Procedural decisions made in 2000 (figures from 1999 in parenthesis):

- Derogation from implementation ban 6 (2)
- Severely deficient notification 5 (8)
1 Introduction

The re-assessment of the position of public production is doubtless among the core issues of economic policy. As for state-owned production, structural changes have been carried out from the 1990s, which have helped to open up more and more government organisations to the markets and to competition. A corresponding trend has expanded into the communal sector in the recent years. As a response to this line of development, the FCA established its Government and Markets project in 1998, with an aim to analyse the increasing use of markets and competition in public production.

It is the obvious and lawful duty of the FCA in this generally significant change to contribute to the prospective changes leading up to an appropriate use of markets and competition, on the one hand, and to prevent restrictive practices and other means of limiting or distorting competition, on the other.

Public welfare service production constitutes a significant part of municipal activities in Finland. The municipalities are responsible for approximately 2/3 of public service production. The economic recession of the last decade and the adjustment thereof have decreased the central government transfer to local government, although the municipalities are increasingly free to decide about the allocation of the transfer to different uses.

On these grounds, new operating models in general and models based on the conscious creation and use of the market and competition environment will be an obvious line of development in the communal sector. The markets and competition still have the obligation to arrange statutory services – i.e. to make these services available to the residents of the municipality – and the need for the services is only increasing in the future.

Marketisation of communal production

Martti Virtanen, Raili Mäkitalo

2 Raili Mäkitalo is a Financial Counsellor in the Ministry of Finance.
3 Martti Virtanen has written the introduction and chapter 3. Chapter 2 is a joint analysis by the writers on the properties and shortcomings of the communal service production system from Autumn 2000.
4 The writer has discussed the basis, content and results of the project in the FCA 2000 Yearbook (in Finnish).
5 On the other hand, the tax revenue of the municipalities has increased.
6 A report by special evaluator Jukka Pekkarinen has recently been published on the financing of the basic services of the municipalities (Publication by the Municipal Affairs unit of the Ministry of the Interior 1/2001). The report closes by suggesting a redistribution of municipal revenue as means of securing the availability of municipal basic services in the entire country. The report does not discuss who finally produces the services. The report states (p. 11) that the financing system is primarily neutral with respect to these choices. It is important to observe, however, that renewing the models according to which the services are arranged may lead to major cost savings or to qualitative development, as a result of which the public need to finance the services may decrease in a major way while welfare increases. Realising the proposals of the report by the special evaluator has been estimated to require an input of approximately FIM 1.5 milliard.

There are two avenues in the development of the traditional model of arranging the basic municipal services: marketisation and increasing competition, or the centralisation and control of planning. The cost and quality level of the organisations producing welfare services still varies to a great extent. According to various surveys and accounts, the factors related to resources and the operating environment explain this variation poorly. The productivity of public administration has increased slowly. Mere increases of resources cannot solve the problems. It is difficult to obtain an appreciably higher quality of customer service and cost-efficiency by means of the present resource-based and producer-focused planning, control and management methods prevailing in the public administration.
mere adjustment of the amount of resources is insufficient to solve the problems of communal service production and the obtaining of further resources is not a mere organisational issue in the long run. This will be attested by the next recession.

The FCA and the regional governments carried out an investigation on municipal production in 2000 as part of the Government and Markets project. The investigations were carried out in two parts with questionnaires and supporting interviews, charting the situation of 15 municipalities altogether. The investigation concerned the municipalities’ social and health care services and technical services above all. Statements have been invited on the mid-term report just completed from the municipalities and the Association of Finnish Local and Regional Authorities, from entrepreneurial organisations and business communities and the trade unions.

In the next chapter, the properties, problems and development patterns of the traditional communal service production system are analysed in more detail. Chapter 3 discusses more closely the results of the above-mentioned mid-term report on the new trends of municipal service production.

2. Markets and competition in the arranging of communal services

In practice, welfare services have still largely been arranged in Finland using a hierarchical, norm and resource-oriented planning and operating model. The system may be characterised as non-marketised, and as being based on regionally decentralised planning units. Nobody seems to be responsible to the citizens for the quality, availability and price of the services.

The planners of the service systems and decision-makers cannot naturally fully know the citizens’ preferences, the different production possibilities and production methods. Roughly, the result is a monopolistic, highly standardised and mass-oriented production model, with frequent simultaneous occurrence of over-capacity and bottlenecks of production.

In the present steering and management models, the roles of the financers, customers and suppliers are unclear. The majority of the financers are also service providers, although according to law, the municipalities only have to make the services available to the citizens. Mixing and blurring the viewpoints of financers, customers and suppliers too often puts the needs of the service users and final payers in a secondary position. With respect to most services, the prioritisations and choices made by the users would make it possible to observe whether the welfare services correspond to the needs and expectations of the citizens.

It is possible to clarify the responsibilities of the financer, supplier and customer on the one hand, and the responsibilities of official action and service production on the other through carefully executed applications of the customer-supplier models. Applications of the customer-supplier model will already considerably change
the organisation of municipal service production and clarify the roles and responsibilities of the political decision-maker and service production organisations. The customer and supplier start, before long, using typical market criteria – i.e. information on the content, quality, price and volume of the services – when agreeing on the organisation of production. Applied systematically, the model implies a shift to market-based steering even in case there is only one production unit operating on the quasi-market the municipality has arranged within itself. However, the customer-supplier model requires clear productivisation, appropriate cost accounting and functional follow-up and monitoring of production.

When the customer-supplier model has properly been introduced, several separate and mutually independent municipal production units can be established within the intra-municipality quasi-market, which compete with each other in the tenders, the criteria of which are set by the customer. The competitive scene has to be made genuine. The customer must be able to locate and remove the factors which distort competition among the production units as fully as possible. In the planning of the activities of the production units, the effects of the tender have to be anticipated. In the same way, public, private or so-called third sector production organisations can be included in the tender.

The development process described above does not by itself change the role of the municipality as a planner and decision-maker of the services. In the arrangement of welfare services, attention should, however, be paid to the position of the service users. Alternative service production may be created by vouchers, which make consumer preferences observable and, hence, assist in steering production. Such decentralisation of the ordering procedure may follow the reform of the production organisation, be parallel to it or an alternative way of starting the development of the communal welfare service production system.

The line of development described above does not pose insurmountable obstacles to the appropriate steering and monitoring of service production. A double steering and control can quite easily and at a reasonable cost be built into the publicly funded services, both by the customer and the financer. The monitoring of the services managed by the public administration as its own activity should, in fact, be enhanced.

The municipal structure, the independence of the municipalities and the extent of the service production pose special challenges for the cooperation, division of labour and specialisation between the municipalities. Both the organisers and suppliers of welfare services have to be able to network in a new way to maintain their competitiveness. New ways of thinking and new steering models are needed here, too. The customer-supplier model also clarifies regional cooperation between the municipalities. It is possible to considerably increase the efficiency of the welfare services by a regional reform of the steering and production models. The price-quality ratio of the services shall be assessed open-mindedly over organisation limits. On the basis of this information and that received from the customers, it is possible to arrange a regional cooperation network, which provides for the services effectively. Cooperation and the transparency of the services strengthen the parties’ mutual trust and responsibility. Since many municipalities are small and sparsely populated, it is only regional cooperation that can create prerequisites for sound welfare service entrepreneurship.

In the arrangement of welfare services, a conscious, gradual development process is needed, where the financing, ordering and production of the services are separated and where the interface between production and ordering is made market-based. The reform process may remove artificial barriers between public, private and third sector organisations and provide all kinds of organisations with unlimited possibility to create genuine competitive advantages and to offer better
services to all citizens. This strengthens the welfare society and is in the interest of public finance, too.

Money may alleviate the acute problems involved in the production of welfare services without removing the basic problems. In the long run, structural change in service production and a reform of the steering systems are necessary. It is time-consuming and demanding to develop the steering systems but it is the only way to secure the service capability and competitiveness of our welfare system.

Reform requires a holistic vision overriding vested interests on the policy strategies and steering models of a socially and economically sustainable welfare society. The central elements are

- the role of the customer in publicly funded service production and income transfer policy
- the role of the societal decision-making machinery in steering and monitoring the welfare policy and
- the means of competition and cooperation in arranging and steering an effective, high-quality and cost-effective service production.

3. Main results and conclusions of the municipal study

The findings obtained by the FCA and the regional governments show that the reform of production is currently widely underway in the municipal sector. The reform is not only limited to a specific field of production or a specific geographical area but clearly concerns both the social and health care sector and the technical services, and the whole region of the country. The reforms already concluded by and those still planned by municipalities increase the use of the market and competition mechanism and the share of private producers in the arranging of municipal services.

The functional challenges of the municipalities’ social and health care services have, according to the findings reported, led to measures increasing the efficiency of production, which are typically market-based or leading up to marketisation. These include the development of cost accounting and productivisation, the introduction of benchmarking procedures, systematic acquiring and use of customer feedback and other attempts to develop the quality of the services.

Particularly in child day-care where there are commonly several municipal units in the municipal region and where the possibilities of private business undertakings to enter the market are good, provided they fulfil educational standards, voucher systems have been introduced and avenues thus opened up for competition.

The increase of the social and health care service production is largely channelled into outside service procurements. The tendering of services in accordance with the Act on Public Procurements seems to increase slowly, however. Contractual steering, on the other hand, is used considerably more often when services are being purchased. The aim of contractual steering is to secure the appropriateness of the services in a manner that is more personal than tendering and to develop enduring cooperation networks. Municipalities seem to have developed few direct applications of the customer-supplier model in social and health care services.

The technical services of the municipalities are a wider and less uniform sector operationally than the social and health care services and, within this field, private business has been considerably more developed than e.g. in the social services. The technical services are clearly more advanced in developing operating models using markets and competition than the social and

---

10 On the other hand, the centralised planning and control of welfare services is on the increase. A quality recommendation has recently been issued on the care of the elderly, the total costs of whose realisation have been estimated to be FIM 1 milliard. Centralised guidelines do not by themselves prevent the marketisation of the services on a municipal level. It is possible to proceed side by side into both directions, provided that the municipalities remain free to arrange their services through marketised processes.
health care sector of the municipalities.

In technical services, the customer-supplier model has been implemented and there has been a shift towards market-based contractual steering and pricing between the municipality and the production unit. Production units have been subjected to adaptations of the competitive environment, and the development of cost accounting and quality programmes is also related thereto.

Invitations to tender, which include both public and private producers, are constantly implemented, although, in the technical sector, productivisation, cost accounting and measuring activities are generally perceived to be more problematic than in the social sector. Invitations to tender, which include both public and private producers, are constantly implemented, although, in the technical sector, productivisation, cost accounting and measuring activities are generally perceived to be more problematic than in the social sector.11 In the technical services, too, the increase of service demand and peak load demand are being directed to private producers.

Networking is expanding into technical services, largely as cooperation among municipalities in the planning of land use and waste management in particular. This is clearly related to the utilisation of the economies-of-scale.

Markets and competition are tools of communal decision-makers. Their conscious and systematic use may improve the cost-efficiency and quality of the services financed by the municipality and spur innovation. By coordinating their reforms, municipalities are able to appreciably promote the realisation of efficiency goals. The common or coordinated reforms of several municipalities create a more enduring and predictable framework for outside service production and provide it with constant demand, which guarantees its long-standing market operations.

Also these findings suggest that marketisation is a process with many stages. It may start with the introduction of a market-based intra-municipal steering model of production or in some cases with the transfer of steering power to the inhabitants. The process helps to separate production, financing and political power and the actual technical procedure of ordering in ways defined by democratic decision-making.

Marketisation reforms gradually subject the municipal service production system to the Competition Act. When the norm and resource-oriented operating model is replaced by a market-based agreement procedure, the municipal production unit becomes a business undertaking as defined by the Competition Act. Since the municipality has an ownership-based controlling interest in its production units, the business nature of the production unit has no practical significance as long as the municipality does not allow competition between production units. But when competition is introduced, the application of competition legislation becomes relevant in practice.

As the municipal production unit also frequently holds a dominant position, there is a significant possibility for unreasonable pricing or artificially exclusionary pricing from the market or another artificially exclusionary procedure. On the other hand, the threat of bidding cartels is also imminent. This is the case particularly when institutional entry barriers limit the number of possible providers. Restrictive practices, which endanger the reform trend, may be avoided by careful planning.

The reforms of municipal production have not, generally speaking, expanded the sphere of operations of municipal production to traditionally private operations. Indeed, in the technical services, individual operations have frequently been cut down or entirely eliminated (e.g. actual construction duties). In the future, particular attention should be paid to the expansion of the municipalities’ own production to traditionally private spheres of business being counterbalanced by the corresponding acts of the municipalities to open up their own procurement operations to competition.

\[11\) This is the case particularly in maintenance tasks. In this respect, the situation is analogous with the organisation reform of Road Administration.
Background

A liberation of telecommunications operations to competition occurred in Finland at the start of the 1990s, and the Finnish telecom policy has actively sought to promote effective competition into its different fields. Despite these efforts, telecom operations are highly concentrated in the hands of traditional market operators, i.e. Sonera, Elisa Communications and the Finnet companies. The above-mentioned operators govern 81 per cent of the international telecom services, 94 per cent of the long-distance services and 76 per cent of the Internet services. Clearly the most problematic area is the local telecom operations, where the traditional operator still holds 90–100 per cent of the market. Lack of competition in the local telecom network has shown in the great number of complaints lodged with the FCA.

At the moment, the FCA has 30 competition restraint cases pending in the telecom field. Approximately half of the cases concern the right to gain access to the unique physical infrastructure, service or knowledge governed by the competitor; generally, the object of the complaint is the alleged discriminatory nature and unreasonableness of access pricing and other terms. Complaints on monopoly pricing form another big bundle of cases. The two problems may also appear in the context of the same case, as excessive pricing is one efficient way of preventing competitors from exploiting e.g. their right to lease subscriber lines from the local telecom network. The majority of the FCA’s cases on access and pricing concern the fixed local telecom network.

Vertical integration in telecom operations

Vertical integration here refers to a situation where a company simultaneously operates both in the market of a non-competitive activity and competitive activity and where the non-competitive activity is necessary raw material in the production of the competitive activity. The activity or product can be non-competitive for several different reasons – because it is a natural monopoly, because legislative measures may have prevented access, or because the competitors’ entry to the field may be prevented for other reasons. The following chart illustrates a situation where the vertically integrated company competes for end customers with two other companies.

The company operating in both the non-competitive and competitive market is likely to cause competition concerns in the market of the competitive activities. The integrated company has a strong incentive to use the competitive benefit granted to it by the non-competitive activity in the market of the competitive activi-
ity. Through its market position, the company is able to complicate the operating possibilities of its competitors, e.g. by denying access to non-competitive products, by collecting an unreasonable price from the use of the competitive product, by cross-subsidising its own competitive activity by monopoly profits collected from the sales of the non-competitive product or by applying the price screw. However, the integrated operating model has its advantages, too, because by using it, the company may achieve efficiency benefits brought about by joint production. A more efficient operating model may enable the supply of more qualitative and inexpensive products to customers.

The fixed local network has not been considered a natural monopoly in the Finnish telecom policy, but a potentially competitive field. In fact, competing network companies have not notably entered the most expensive part of the local telecom network, i.e. the subscriber lines. Competing subscriber lines have been primarily built for the needs of major companies, whereas small and medium-sized companies and households are still served by the traditional local telecom operator. At least in the short and medium term, the local telecom network may be considered a non-competitive market. This is due, above all, to the considerable investments required beforehand by the subscriber lines. Traditional local network companies have been able to realise their own network investments in the cover of the monopoly, which has clearly reduced the business risk related to the investment. The building of the networks was formerly financed by co-operative contributions collected from users, as a result of which companies received highly motivated owner-customers. The liberation of competition has increased the risk involved in the building of new networks and the customers are not prepared to permanently commit to new entrants through ownership or otherwise. The extensive building of a competing local subscriber lines has not proved seductive even in the most densely populated areas.

The local network plays a major role in telecom operations, as all telecom services, mobile services excluded, are currently used through the local network. Hence, telecom companies who govern the local telecom network have a possibility to strongly affect the competitive conditions and the operating possibilities of competitors with their own conduct in all the affected markets. The pricing and other terms of supply of the local network have a decisive effect e.g. on the possibilities to

use Internet services and on their operating costs. In addition to the local network, other products not caught by competition can be found from within the field of telecoms, and their availability and terms of use appreciably affect the operating possibilities of the lower markets. One example that can be cited is the subscriber information listed in the telephone books, which are necessary raw material in the supply of different printed and electronic cataloguing and indexing services. The competition concerns involved in these products are largely similar to those in local telecom networks.

The competition concerns caused by the joining of a non-competitive and competitive activity may be intervened with in several ways. Some of the approaches may be carried out within the framework of the general competition legislation while others require sector-specific legislation. The integrated market structure and the ways of regulating it are approached in what follows through four different models used in the Finnish telecom market: separation into reciprocal parts, club ownership, access regulation and ownership separation.13

Separation into reciprocal parts

Separation into reciprocal parts here refers to a situation where there exist several vertically integrated reciprocal operators in the market. This model has been found functional, particularly in the solving of interconnection and other transit problems. Markets based on reciprocal ownership have been created through divestments enforced by the authorities e.g. in the United States, where the national telecom company AT&T was separated in 1984 into regional Baby Bell companies. Reciprocally operating regional monopolies require access to the non-competitive activities of other regional monopolies for their own competitive operations. E.g. a company offering its services in the railways must obtain a permission to use all the parts of the railway network, through which the offered train routes operate. If one of the regional monopolies denies the use of its own track, the other monopolies may reciprocally prevent its entry into their tracks. The negotiation power afforded by the local monopoly generally leads to monopolists providing each other with the right to use their non-competitive activities on reciprocal terms.

The model of separation into reciprocal parts has been used in Finland in local telecom operations since the 1800s, when the building of local telecom networks began with the help of private cooperatives and companies. There are presently approximately 40 independent local telecom network companies active in Finland. According to the Finnish experience, reciprocal monopolies have reached an understanding e.g. on interconnection, but the position of new entrants has been more difficult. Changes in market structure have brought several new companies into the telecom market, which do not have their own telecom network at all or it exists on a very small scale only. Entrants such as these have no negotiating power with respect to the local telecom network companies, as the new entrants do not possess such products, whose use would be indispensable for the regional monopolies. The own operations of the local monopoly will not suffer, even though interconnection is not offered to new entrants. The model of separation into reciprocal parts may prove even more difficult for the new entrant than operating with one national monopoly. In the dispersed model, market entrants are forced to negotiate with several local monopolies, which is both expensive and time-consuming. On the other hand, the small, isolated local monopolies may be placed in a weaker position while trying to negotiate interconnection with the big monopolies.

13 An OECD background note Structural Separation in Regulated Industries is currently under preparation on vertical integration and the different regulation models.
Club ownership

In club ownership, the non-competitive activity is given to the joint ownership and control of competing companies operating in the lower markets. The possibility to use discriminatory and unreasonable terms diminishes, when competitors jointly decide on the use and the terms of use of the non-competitive activity. Club ownership is commonly used in airports in the administering of landing and take off slots. In Finland, the club ownership system has come to be used on market terms in the cataloguing and indexing business, where Suomen Numeropalvelu Oy maintains and administers the national database composed of subscriber information. The indexing services offered to end customers such as the phone number service are realised through the database governed by Suomen Numeropalvelu.

Club ownership, where the terms of assignment and sales of the non-competitive activity are agreed upon between companies who own the joint venture and who are mutual competitors, can, almost without exception, be regarded as price-cooperation under Article 6 of the Competition Act. Club ownership can only be realised if efficiency benefits can be obtained with the cooperation, i.e. if the arrangement boosts production or distribution or promotes technical or economic development and if the benefit primarily accrues to customers or consumers. In the vertically integrated markets, club ownership often leads to a situation where the joint venture owned by the competitors is in a dominant position and generally in a monopoly position in the market of the non-competitive activity. In the context of the exemption procedure, it should be ascertained that the companies participating in the cooperation do not harmonise their conduct in the lower, competitive product market and that entry into the lower market remains unrestrained.

The model of club ownership is sensitive to two types of competitive problems. On the one hand, dispersed ownership may lead to serious management and administrative problems in the joint venture and hence to the inefficient use of the non-competitive activity. Problems of administration are highlighted in multioperator markets. On the other hand, the joint venture has a possibility to discriminate against new entrants who remain outside the club ownership. The latter problem has also appeared in the cataloguing and indexing market. The FCA is examining a complaint, where some telecom companies and Suomen Numeropalvelu are accused of unreasonable pricing of subscriber information needed in the cataloguing business and of discrimination of new entrants. According to the complaint, the discrimination has shown e.g. in that telecom companies have refused to deliver all subscriber information to their competitors and that strict limits have been set on competitors regarding the possibilities and extent to which the information can be used.

Access regulation

The models of separation into reciprocal parts and club ownership only solve some of the problems caused by the vertically integrated market structure. In both models, the company governing the non-competitive product has both the possibility and incentive caused by maximisation of economic profit to discriminate against customers who have remained outside the ownership arrangements and to limit their operating possibilities in the market of the competitive activity. In the prevention of such restrictive conduct, access regulation may be resorted to. Access regulation may also be used as the sole regulation method.

The Finnish Telecommunications Market Act widely applies access regulation, where a vertically integrated company is obliged to offer its competitors the right to use the non-competitive activity on equal and reasonable terms. The Commission’s telecom policy is also largely based on this regulatory model. The granting of
access is used to safeguard competitors equal rights to use the non-competitive activity, for example the subscriber lines, in their own service supply. In this regulatory model, the ownership and administration of the non-competitive product remain with the vertically integrated company. Access regulation does not always require sector-specific legislation; it may be realised solely on the basis of competition legislation, if the non-competitive activity is an essential facility.\textsuperscript{14}

Access regulation does not remove the basic economic incentive caused by the vertically integrated market structure to discriminate against competitors and to impair their business possibilities. When the benefits to be gained through discrimination are great, the vertically integrated company has a strong incentive to restrict competition. In practice, monitoring access regulation has proved strenuous and difficult. The possibilities of an integrated company to limit competition are numerous, from a direct denial of access to a more sophisticated qualitative discrimination, where the competitor is given products of a lower quality, there are delays in the access granting process or damage control is not up-to-date. Information, which is essential for solving the case, is often governed by the monitored company only, and the company is thus able to present the information selectively and with a slight colouring.

The cases on the obligation to lease subscriber lines and their pricing provide an example of the difficulties involved with monitoring access regulation. The FCA commenced investigating the pricing problems related to the leasing of subscriber lines in 1996 and, having detected serious competition concerns, made proposals to the Competition Council on three local telecom companies in 1999. The cases are still pending at the Competition Council while this article is being written. Due to their significance in principle, it is likely that an appeal will be made to the Supreme Administrative Court, and the final decision may thus be postponed by several years. The investigation and court procedure lasting up to six or seven years is not an efficient way of safeguarding the competitive position of market entrants. Monitoring difficulties and the slowness of the process form the biggest problems of access regulation.

It may be necessary to combine different behavioural obligations to access regulation, which also aim at facilitating control, e.g. accounting separation. In Finland, the Telecommunications Market Act obliges telecom companies with considerable market power to draw up separate accounts of their network operations and service operations and a balance sheet for the network operations. The accounting separation obligation aims at increased transparency of the operations and hence complicates cross-subsidisation between network and service operations.

Ownership separation

The monitoring problems related to access regulation can only be removed if it is possible to diminish the incentive of the vertically integrated company to discriminate against its competitors. One way of arriving at this is to separate the non-competitive and competitive activities to separate companies governed by different owners. A company which only operates in the market of a non-competitive activity does not feel the need to prevent the use of a non-competitive activity; on the contrary, in order to raise the own profits of a separated company, it is required that the non-competitive product is used to a maximum effect. A separated company does not have an incentive to unfoundedly discriminate against companies active in the lower, com-

\textsuperscript{14} Essential facilities have been dealt with in EU case law e.g. in the context of the following cases: Oscar Bronner (C-7/97, Oscar Bronner GmbH &Co KG vs. Mediaprint, 26 November 1998) and Magill (C-241/91 P and C-242/91 P, RTE and ITP vs. the Commission, 6 April 1995).
petitive market. Additionally, the control problems caused by lack of information in the context of access pricing are largely removed. On the other hand, after ownership has been separated, the society looses the efficiency benefits obtainable with integration.

In telecom operations, separating telecom networks and services from each other could solve the competition concerns caused by vertical integration. In Finland, the first network operator to offer telecom network services only, i.e. Suomen 2G maintaining the national GSM 900 mobile network, commenced operations in February 2001. The separation of services and network is not complete in 2G’s case, as the same owners also own the mobile service operator DNA Finland. In the fixed network, ownership separation has not been realised between networks and services. To open up local telecom competition, an efficient target of separation in Finland could be the cable television network, whose ownership is now centralised to local telephone companies almost without exception. The cable network has been considered one of the major network infrastructures competing with the local telecom network. The cable networks have a ready built fixed connection to approximately 40 per cent of the Finnish households and, after some technical alterations, the cable network could offer all the telecom services used through the fixed telecom network. The dissolving of the existing ownership structures would require legislative measures in the order of enactment of the Constitution and the Ministry of Transport and Communications has not been willing to do this.

The FCA has the possibility to intervene with vertical integration limiting competition through the control of concentrations. An acquisition between an owner of a non-competitive product and a company operating vertically on a lower market can be forbidden, if, as a result of the concentration, a dominant position is created or strengthened which significantly impedes competition in the Finnish markets or a substantial part thereof. Such a concern was evident in the proposed merger between Sonera and Digita, where the FCA proposed to the Competition Council that the merger be banned. The acquisition would have created vertical integration between the digital radio and television networks and the services offered through it. In its decision, the Competition Council found that the competition concerns of the acquisition were related to the parties’ temporary possibility to prevent the competitors’ equal access to Digita’s services holding a key position. In its decision, the Competition Council found that the risks of vertical integration resulting from the acquisition could be managed through the conditions set on the acquisition and accepted it. The Competition Council emphasised that banning the acquisition could prevent competition and harm the development work promoting consumer welfare. Additionally, the Council found that the transparency of interfaces and the access of competing companies to the network on equal terms could be secured with the aid of legislation.

Conclusion

In Finland, possibilities to expand local telecom competition have been mainly explored through access regulation in accordance with the EU policy. The amendment of the Telecommunications Market Act passed by the Parliament in March seeks to enhance competition in the local telecom network by focusing a new access concentration.

---

15 The FCA’s proposal to the Competition Council on 17 April 2000, Dno 1010/81/1999. Among the competition concerns of the acquisition brought up by the FCA were the major competitive advantages achieved as a result of the acquisition, which were related to the compatibility, functionality and reliability of Sonera and Digita’s services and distribution networks and the resulting cost savings. With Digita, Sonera could have promoted the success of their own content and transaction services in the digital television and radio environment and Digita could have favoured Sonera’s services either by pricing, technical compatibility or reliability.

16 The Competition Council decision of 9 July 2000, Dno 53/690/2000. The decision found that the competition concerns were mainly related to the testing phase of the new technology.
obligation to network operations, i.e. the obligation to lease the so-called bandwidth. This shared use of the copper line provides the customers with the possibility to tender local telecom service providers and to obtain e.g. Internet services and the traditional telephone services from different providers. After the obligation has been prescribed, complaints on its abuse will inevitably follow, both to the FCA and the telecom regulator, the Telecommunications Administration Centre. The precedents on the pricing of subscriber lines will solve some of the competitive problems related to access, which is likely to ease the authorities’ monitoring work.

It has been the line of Finnish telecom policy to solve the competition concerns by means of access regulation, which can be used to pose rights and obligations on companies and to forbid the use of restrictive measures. In reality, legislation cannot prevent companies from resorting to restrictive measures. As has been suggested above, a vertically integrated company is able to maximise its own profit by limiting the competitors entry to the non-competitive activity, which is why the integrated company has a strong incentive to violate the obligation on access regulation set on it by legislative measures. The companies’ obedience could be increased by prescribing sufficiently large economic sanctions, and by actively applying the sanctioning possibility. The economic sanction should be at least as big as the benefit obtained by the competition restraint, in order to achieve the desired preventive deterrent effect. The violation of the special provisions of the Telecommunications Market Act has not been sanctioned in other ways than by posing a conditional fine, but on the basis of competition legislation, an infringement fine may be imposed on companies, amounting to a maximum of 10 per cent of the companies’ turnover. So far, the biggest infringement fines have been imposed on the forest industry companies who participated in a wood trade cartel. The fine amounted to FIM 10 million to each company. The Competition Council has taken a more moderate stand in its imposition of fines in abuse of dominance cases.

In addition to the models focusing on vertical integration described above, supporting the building of network infrastructures competing with the local subscriber lines may also increase competition in local telecom operations. Competing and supplementing networks to the fixed network are not only the cable television network but also wlan, mobile and digital television networks. The electricity network has also been considered a potential competitor to the fixed telecom network. The aim of inter-network competition is to provide the customer with the possibility to choose the network, which best suits the conveying of a certain service. The basis for the choice of the network may e.g. be its price, the data transmission speed, mobility or reliability. This kind of inter-network competition requires that the customers have access to several networks and that the services may be used flexibly through any network. Even though inter-network competition may eventually remove all the competitive problems caused by vertical integration in telecom operations, the line of development is likely to last several years. The fixed telecom network has several technical and economic advantages compared to the fixed telecom network, which may maintain the lead of the fixed network for quite some time. The fixed subscriber lines are estimated to play a major role in the future as a distribution channel of services requiring broadband.17

---

Introduction

Year 2000 in Finnish merger control was characterised not only by a dramatic rise in the number of concentration notifications but also by policy issues emerging as the merger provisions were applied in new situations. The FCA made its first proposal to ban a concentration to the Competition Council and its first decisions based on a joint dominance by business undertakings. The so-called failing firm defence was also considered for the first time, i.e. the circumstances under which a merger whose object of acquisition is in economic difficulties could be approved. A general description of the cases can be found elsewhere in this Yearbook.

Generally, it may be stated that the procedural rules and assessment principles of the control of concentrations are beginning to be established, i.e. the parties and the FCA now speak the same language. The accounts that follow on policy, interpretative decisions and some procedural issues are aimed to corroborate this line of development.

Joint dominance

In the Fritidsresor/Finnmatkat case, the FCA found that the acquisition would lead to the creation of joint dominance by Finnair and Fritidsresor in the package tour market. In its decision of 5 April 2000, the FCA extensively discussed the viewpoints related to the detection of joint dominance.

Joint dominance is often related to oligopolistic market structure, i.e. a market where there are few major players. Joint dominance is possible when some of the major operators can reach an ‘understanding’ and maintain prices above the competitive level. Interaction between companies does not have to be explicitly expressed or be based on actual agreements; it can also take the form of tacit collusion. Intervening with a concentration on the basis of the creation or strengthening of joint dominance requires taking a stand to whether Article 11 d of the Competition Act can be applied to cases of joint dominance in the first place or whether the Article only concerns dominance by one business undertaking.

When the provisions on the control of concentrations became effective, the FCA issued guidelines, which discuss the assessment of merger cases and the interpretation of the provisions involved. The guidelines start off from the idea that Article 11 d of the Competition Act does not distinguish between whether the joint dominance is obtained by the company alone or whether it is a question of joint dominance. The guidelines state cross ownership and contractual arrange-
ments going beyond the ordinary commercial agreements as strong indications of joint dominance.

The guidelines state that the creation or strengthening of joint dominance is examined on the same basis irrespective of whether the dominance of one or several undertakings is examined in the market. In the case of several companies, the market positions are affected by the turnovers, competitive effects, economic resources and other factors of all the companies, which subsequently affect the creation of a dominant position. The interpretations proposed in the guidelines are largely based on the EC Commission practice, but the report of the working group examining the reform of competition legislation also mentions the right to intervene with cases of joint dominance.

There are certain basic conditions, which, fulfilled, are likely to indicate the existence of joint dominance, and there are factors, which increase its probability. A basic condition is that the companies involved have acknowledged their mutual interdependence. There are so few providers in the market that each must consider the actions of the other and foresee the likely responses to any own measures. Another condition is the high entry and growth barriers in the market. The leading companies are thus able to raise prices e.g. by limiting production without having to fear the additional supply brought by market entrants. The third condition is that companies who have achieved mutual understanding are able to detect deviations from the common line and have a possibility to 'punish' such companies.

The fulfilment of the basic conditions is not enough to indicate the existence of joint dominance. In literature and the decisions by the community courts and the Commission on joint dominance, several factors increasing the likelihood of joint dominance have been detected.

In its assessment of the existence of joint dominance, the FCA paid attention to the following details of the Fritidsresor/Finnmatkat case:

- As a result of the acquisition, a market structure would have been born, where the joint market share of the two biggest tour operators (Finnair and the Thomson Group that Fritidsresor belonged to) would have amounted to 60–80 per cent. The share of the third biggest operator was less than 25 per cent. The interdependence of the companies of the field was due not only to actual agreements but also to the nature of the package tour. The package tour loses its value, if it cannot be sold at the proper time. This is why balancing supply and demand is particularly important for maximising the result.
- The agreement on flights concluded between the parties led to strong ties between Finnair and the Thomson Group. As a result of the agreement, the cost structures of the companies were harmonised, which improved the harmonising possibilities of the operations.
- Entry to the field was limited by the lack of suitable flight capacity and the customers’ tendency to use the domestic airline. The guarantee required on the basis of the Act on the Arranging of Package Tours was found to limit the entry of small tour operators to Finland.
- The market was found to be transparent to the extent that the members of the oligopoly were able to detect deviations from the common behavioural pattern. As the leading charter flight company, Finnair is

21 Decision by the Court of First Instance of 25 March 1999: Gencor Ltd vs the Commission T-102/96 and the decision by the Court of Justice of 31 March 1998, ‘Kali + Salz’, joint cases C-98/94 and C-30/95.
22 E.g. the Commission’s decisions of 22 September 1999 IV/M.1524 Airtours/First Choice and of 20 May 1998 IV/M.1016 Price Waterhouse/Coopers & Lybrand.
knowledgeable of the flight capacity needs of all tour
operators and the changes in them. The trade associa-
tion of the field publishes detailed supply
statistics. The tour operators publish their brochures
well before the season, and these contain detailed
information on the trips sold. It is possible to follow
the price level of each season and indirectly the
number of unsold trips from newspaper ads and the
homepages of travel agents and tour operators.
Through its travel agents, Finnair is able to monitor
the sales of each tour operator.

- Both Finnair and Fritidsresor were found to be able
to ‘punish’ the other party when necessary, should it
seek to appreciably increase its share of the market.
A sanction may e.g. be the limiting of the flight slots.

The factors increasing the likelihood of joint dominance
were the transparency of the market, entry barriers,
small increase in demand, the similarity of the products
of the field, the limited bargaining power of the
customers and the market conditions, which had
remained the same for a long time.

The Carlsberg/Orkla case concerning the brewery
business, in which a decision was issued on 2 January
2001, also dealt with a situation of joint dominance. In
the arrangement, the brewery and soft drink business of
the Norwegian Orkla transferred to the ownership of the
Danish Carlsberg. At the same time, Carlsberg replaced
Orkla in using joint control with Hartwall in the Baltic
Beverages Holding Ab operating e.g. in Russia and the
Baltic countries. Prior to the arrangement, Carlsberg
owned Hartwall’s main competitor Sinebrychoff.

In its decision, the FCA found that the joint domi-
nance was based on the incentives between the busi-
ness undertakings and the possibilities to avoid mutual
competition and the limited chances of the other mar-
ket operators to replace the lack of competitive pres-
sure between the companies holding dominance. Tacit
collusion on prices and the harmonisation of other anti-
competitive market behaviour is created when each
member of the oligopoly understands the effects of
their decisions in the market and the reactions of the
other members of the oligopoly to them and when the
members are able to engage in uniform anti-competi-
tive conduct. The members of the oligopoly holding
dominance are then able to harmonise their behaviour
in the market and to refrain from competition and to act
irrespective of other competitors and customers.

Sinebrychoff’s, part of the Carlsberg group, and Hart-
wall’s joint dominance in the brewery market was
attested by concentrated production (joint market share
60–100 per cent), homogeneous products, transparent
market, cooperation between producers e.g. in the recy-
cling of bottles, mature production technology, low level
of innovations, similar cost structures between pro-
ducers, high entry barriers including high sunk costs
related to manufacture and distribution, strong brands,
partially exclusive arrangements tying some customers,
the ties between Sinebrychoff and Hartwall resulting
from the acquisition and the fact that the companies
meet in several different markets. The demand of beer
was found to be inflexible, and to grow very slowly at
most. Additionally, customers were found to have mod-
est possibilities for the use of bargaining power bal-
cancing the producers’ market power. These factors pro-
vided Sinebrychoff and Hartwall with the possibilities
to engage in uniform anti-competitive conduct and with
the incentives to refrain from fierce mutual competition.

The conclusion about joint dominance resulting
from the merger was reinforced by the ties between the
Sinebrychoff Group and its main competitor Hartwall in
their successful joint venture operating in the Baltic
countries and the considerable minority share of Orkla,
Carlsberg’s brewery business partner, in Hartwall.

Notification obligation and business conducted in Finland

In the Carlsberg/Orkla case, a stand was also taken to the date at which the creation of the notification obligation begins. Which is decisive: the moment the concentration agreement is made, the notification date or the date the acquisition is implemented?

In the above arrangement, Orkla's brewery and soft drink business operations, i.e. the Pripps Ringnes Group and the shares of Baltic Beverages Holding Ab owned by it, were transferred to Carlsberg. None of these companies seemed to engage in business in Finland, however, i.e. the notification obligation was uncertain at the start of the investigation.

During the investigations, it transpired that the Rent a Cooler Group part of Pripps Ringnes also transferred to Carlsberg: this had set up RaC Finland Oy, which had started operations in April 2000. A binding agreement about the Carlsberg/Orkla concentration had been made on 31 May 2000, i.e. RaC Finland engaged in business in Finland at a time that a binding agreement was made on the concentration.

Carlsberg found that the business operations of RaC Finland did not create a notification obligation, as it was not the intention to transfer any business conducted in Finland, and the representatives of the management conducting the Carlsberg/Orkla negotiations were not even aware that Rent a Cooler had commenced business in Finland. Rent a Cooler and Orkla transferred the shares of RaC Finland by an agreement signed in late June 2000 from Rent a Cooler back to Orkla, which ended RaC Finland's business operations in August 2000.

Arrangements realised after a binding agreement has been made do not have the effect of eliminating the notification obligation, however. Since business had been conducted in Finland through RaC Finland part of the object of acquisition, the arrangement had to be notified. The measures taken after the concentration agreement has been concluded to eliminate RaC Finland from the entity sold were not significant from the viewpoint of the notification obligation. The situation would have been different, had the divestment of RaC Finland from the business operations transferring to Carlsberg been agreed on in the original concentration agreement or had the measure been taken prior to its signing.

The FCA's decision corresponds to its previous line, according to which the date the binding agreement was made is decisive when the companies belonging to the same group of companies are examined and when it is investigated whether the object of acquisition conducts business in Finland. The stand corresponds to that of the EC Commission under the EEC Council Regulation (4064/89) on the Control of Concentrations between Undertakings.

Failing firm defence

The parties to the concentration often bring up the economic difficulties of the object of acquisition as grounds for the approval of the concentration, i.e. the argument that without the concentration, the object of the acquisition would exit the market through bankruptcy proceedings at the latest. The question is whether the concentration can be approved, irrespective of the creation or strengthening of joint dominance, if there is no correlation between the concentration and the creation or strengthening of joint dominance.

In the grounds for Article 11 d of the Competition Act (Government Proposal 243/97), the failing firm defence is found significant in certain cases, 'If the alternative to a concentration is bankruptcy by a party to the concentration, the market is not necessarily any more con-
centrated after the concentration than it would have been, had the acquisition not been made and the property in question would have exited the market. The effects of the concentration on the competitive conditions may be modest under such circumstances, too, because the market would concentrate in any case without the concentration. However, in such a situation, the parties to the concentration must demonstrate that the concentration in question is the only available, economically viable way to prevent the exit of the property from the market and that an alternative restricting competition less is not available.

The FCA was in a position to examine the failing firm defence for the first time in the Valio/Aito-Maito Fin, Kainuu Osuusmeijeri, Maito-Pirkka case (20 June 2000, d.no 1151/81/1999).

The notifier held that the possibilities of the objects of acquisition to remain in the market deteriorated continuously, because they were not able to pay a competitive price for the milk to their producers. The notifier held that banning the arrangement would lead to a significant and rapid transfer of producers to Valio’s benefit, when the producers’ milk would end up for the Valio group to process in any case and increase its market share in the end products. The decrease in the supply of milk by the dairy product companies that were the object of acquisition would have resulted in a spiral of economic difficulties leading to bankruptcy. Many accounts were presented to the FCA on the worsening economic state of the dairies, particularly during the months when the FCA examined the matter.

The FCA did not accept the failing firm defence, however. This was above all due to the fact that it was not shown to the FCA that the concentration would have been the only way to prevent the exit of the property from the market at the time the acquisition was concluded in January 2000. It was not demonstrated to the FCA that there were no other alternatives available, which would limit competition less. On the contrary, the investigations showed that there were alternative buyers when the acquisition agreement was made.

In its decision, the FCA thus took the stand that the failing firm defence, and the alternative solutions to the planned acquisition are examined according to the date the acquisition is made and not the date the competition authorities issue their decision. In the assessment of the conditions attached to the concentration, the FCA did consider the financial status of the objects of acquisition, however, as well as their future prospects and their possibilities to realise alternative arrangements when the FCA decision was made.

In the context of the case, it was also assessed whether the reasons for the economic difficulties of the objects of acquisition had bearing for accepting the failing firm defence. E.g. difficulties resulting from unsuccessful strategy choices could not be found acceptable for an otherwise harmful concentration, if the difficulties could have been removed by making changes in strategy or by re-arranging operations. Another result could have been arrived at if the difficulties would have resulted e.g. from weak and unprofitable production capacity, a crisis testing the entire field or some other reason why the capacity of the object of acquisition would have exited the market permanently in any case.

In its decision, the FCA also paid attention to EC case-law. The matter has been touched in several concentration decisions26, but the defence has so far only been accepted in the Kali+Salz case27. According to the Commission, the notifier bears the burden of proof for

- the object of acquisition being forced to exit the market in the near future without a concentration being implemented,

---

26 E.g. Aérospatiale-Alénia/de Havilland; Kali+Salz/MdK/Treuhand; Saint-Gobain/Wacker-Chemie/NOM; Blokker/Toys ’R Us and Bertelsman/Kirch/Premiere.
the company in a dominant position inheriting the market share or a major part thereof of the exiting company in any case; and

there not being an alternative solution, which would be less harmful for sound economic competition than the arrangement proposed.\(^2\)

**Other interpretative decisions**

During 2000, a stand was taken to many other interpretative problems concerning the provisions on the control of concentrations, either in concentration decisions or in statements delivered to the parties.

The notification obligation and hence the FCA’s jurisdiction to investigate the concentration is often decisively influenced by which companies should be considered as belonging to the group of the respective parties when their turnover is determined. In the Cap-Man et al./Upofloor et al. case (16 June 2000, dno 383/81/2000), it had to be solved whether the group of one acquirer of control (SFK Finance) should also include the turnover of the British 3i Group investor on the basis that, prior to the conclusion of the concentration agreement involved in the case under review, 3i had signed a binding agreement on the acquisition of control in SFK Finance. The latter acquisition had not yet been implemented.

The FCA took a positive stand, because on the basis of the binding agreement, it was possible to perceive the company structure whereby the business would be run in the future. This corresponds to the view previously taken by the FCA, according to which the group of companies under Article 11 b of the Competition Act and the notification form of concentrations (cf. decision by the Ministry of Trade and Industry 499/1998) is defined according to the date the notification obligation starts to run, hence e.g. when a binding agreement is made.

It should be emphasised that the above-mentioned only fits the mechanical calculation of turnover and the definition of business\(^2\) conducted in Finland when the need for a notification obligation is examined. In the assessment of competitive effects, determining the companies part of the concentration is more flexible. E.g. a company acquired by the object of acquisition after the agreement has been concluded may remain outside the calculation of turnover, but in the assessment of the market power of the concentration it is naturally taken into consideration.

In the Neles/V.I.B. case (27 April 2000, 233/81/2000), the notification obligation of the concentration was dependent on whether the joint venture established engaged in business in Finland in the manner defined in Article 11 a of the Competition Act. The joint venture did not have an operating base in Finland; instead, it acquired some product development resources from a parent company in Finland and tested the results of the development work with the parent company’s machinery therein. The personnel resources required for the company’s own research operations are available in a few year’s time. The FCA found that the joint venture did not engage in business in Finland.

The ancillary restraints of concentrations caused interpretative problems again. A competition restraint can be accepted as an ancillary restraint if it is directly related to the concentration being notified and if it is indispensable for its realisation. In the assessment of ancillary restraints, a stand was taken to e.g. the following questions: whether a non-competition clause

---

\(^2\) Joint cases C-86/94 and C-30/1995.

\(^3\) Cf. also Carlsberg/Orkla (2 January 2001, dno 575/81/2000).


may be extended to the personal owners of a seller company\textsuperscript{30}, to sellers who are minority shareholders\textsuperscript{31}, to individuals who have ties to the seller\textsuperscript{32} or to the associated companies of the seller\textsuperscript{33}, whether the terms of an unconnected agreement may be accepted as ancillary restraints\textsuperscript{34}, how an unclear or unspecified competition restraint is dealt with during the assessment\textsuperscript{35} and whether the non-competition clause directed to the founder of the joint venture may be accepted from a time the shareholder agreement has finished\textsuperscript{36}.

In three concentration cases, a stand was taken to the ancillary restraint nature of the supply agreements and exclusive rights agreements of the parties of the acquisition. They all dealt with the dispersion of an existing business entity and the resulting availability problems of the inputs or the sales problems of the products made. In the decisions, obligations based on purchasing or sales volumes were accepted as ancillary restraints, but not terms on exclusive rights.\textsuperscript{37}

Experiences on conditional approval of concentrations

There exists a reasonable amount of experience on the conditions attached to concentrations and monitoring them. Bearing in mind that the FCA’s decision to initiate stage II proceedings does not contain an exhaustive assessment of the competition concerns of the concentration involved and that the FCA does not, like the EC Commission, make a statement of objections on the effects of the concentration or other summary of further proceedings, the negotiations on conditions and the imposing of them have gone quite satisfactorily. However, there is still good reason to emphasise the notifier’s responsibility in the building of a package of commitments. A radical intervention by the FCA in the content of the package may unnecessarily lower the sales price of the part to be sold or in the worst case cripple both the remaining business operations and the one to be divested.

The FCA regularly investigates the power of the commitments proposed by inviting comments from third parties. Market tests usually reveal attempts to mislead the FCA, which may include offering to divest parts which do not factually confirm the market power of the concentration or which do not help to create a balancing actor in the market. Since the proceedings on a case are drawing to a close near the end of the negotiations on commitments, there may not be time for further negotiations. Hence, a bad commitment package easily leads to a proposal to ban the concentration or to the FCA largely deciding about the conditions to be imposed, possibly with the above-mentioned results.

A good package of commitments ensures that

\begin{itemize}
  \item the commitments reintroduce competition into the market to the extent that a dominant position significantly impeding competition shall not be created or strengthened;
  \item the commitments lead to a permanent solution of all the competition concerns created by the concentration and attached to the dominant position, and the commitments are not dependent on promises or commitments to be made in the future (e.g. a notifier refrains from abuse of dominant position); and that
  \item the FCA does not continually have to monitor the following of the commitments.
\end{itemize}

\begin{footnotesize}
\item\textsuperscript{30} Illinois ToolWorks/Nöteviken, 9 February 2000.
\item\textsuperscript{31} United Technologies/AB Electrolux, 17 January 2000, Säänkalvainen/Wm Ympäristöpalvelut, 10 April 2000.
\item\textsuperscript{32} Hotelli Joensuun Kimmel, 27 March 2000, Nokian Renkaat/Posiber, 11 April 2000.
\item\textsuperscript{33} Fritidsresor/Finnmatkat 5 April 2000.
\item\textsuperscript{34} Marli Group/Eckes Granini, 24 February 2000, CapMan et al./Upofloor et al., 16 June 2000.
\end{footnotesize}
In practice, each package of commitments is different and their contents vary according to the degree of gravity of the competitive problem and the nature of the conditions. However, the following outline may be recommended for a successful package of commitments:

- short introduction, which lists the market effects of the commitments,
- account of the business activities to be divested or other measures,
- the measures are singled out for a later monitoring of the commitments,
- time limit and procedure, whereby the commitments are made,
- possible supplementary commitments, which ensure that the business to be divested gets on its feet,
- commitments on the sales procedure of the package of commitments (e.g. retaining the competitiveness of the part to be sold, demands on the buyer such as independence and significance as a competitor, informing the FCA about the sales negotiations and the buyer’s approval procedure),
- facts related to the monitoring of the package of commitments (deadlines for the fulfilment of the conditions, appointment of a trustee to monitor the following of the conditions or to look after the sales, a detailed definition of the trustee’s mandate, and the consequences and alternative solutions to situations where the package of commitments cannot be realised for one reason or another).

For the ‘market test’ of the package of commitments, such a version of the package of commitments shall be delivered to the FCA from which business secrets have been removed. It should still be noted that the FCA requires that the main commitments are implemented in a fairly short time. There are two reasons for this: the dominant position blocking competition shall be shed as soon as possible and secondly, a proposal to the Competition Council on the cancellation of the concentration due to commitments not being followed shall be made within a year of the date of issue of the decision (cf. Article 11 i of the Competition Act).

Derogations from the implementation ban

The parties to the concentration shall not take measures to implement the concentration prior to a final decision in the case. During the proceedings, the FCA may order a derogation from the implementation ban. Article 11 f of the Competition Act prescribes on the implementation ban and the granting of derogations.

In 2000, the FCA granted 6 derogations. Ordering a derogation is thus clearly an exceptional measure and may come into question when the requirements listed in the grounds of the above-cited section prevail (Government Proposal 243/1997).

The exemption application shall include a detailed account of the measures which the parties of the concentration intend to take, an account of the inevitability or necessity of the measures and an account of the probable damages caused to the applicant or object of acquisition, if the implementation of the concentration is made following the final decision. To support the application, concrete evidence should also be presented.

When the FCA reviews the conditions under which a derogation may be granted, it compares the extent and nature of the intended implementation measures to the damages caused by the implementation ban on the one hand, and the severity of the competition concerns possibly caused by the concentration on the other. Particular attention is paid to the extent to which an efficient intervention in the concentration is possible after the derogation has been ordered. It is easier to grant a derogation to the foreign parts of a concentration, if these have no effect on the Finnish competitive
scene and if the business activities of the object of acquisition which are located in Finland can be left outside the implementation altogether.

The assessment of a derogation from the implementation ban also includes a preliminary assessment of the competitive effects of the acquisition. In practice, this means that the application for a derogation may only be examined after the receipt of the concentration notification or after the corresponding information has otherwise been delivered to the FCA, and the FCA has been able to preliminarily hear the other market parties on the competitive effects of the concentration and the effects of the derogation. Granting a derogation may only happen after the acquisition has been made public.

On the need to reform the control of concentrations

The provisions on the control of concentrations have been effective from October 1998. On the basis of the experience obtained so far, it can be estimated that needs for reform focus particularly on the content of the notification form. In its present state, the form does not provide the FCA with the necessary information on the competitive effects of the concentration, on the one hand, and requires the provision of many unnecessary details, on the other. It would be possible to make adjustments to the form fairly flexibly, as the content of the notification obligation is prescribed on a ministerial level norm.

The norms on concentrations having the status of a law seem to function fairly satisfactorily on the average. The two-year rule of Article 11 b, paragraph 5, has been the object of criticism, and it has been suggested that its appropriateness be reconsidered when the Competition Act is next revised. The interpretative decisions related to the application of the two-year rule have been discussed in the FCA 2000 Yearbook.

Another problem related to the field of application of the rules deals with the power of the links that the arrangements notified have in Finland. Under the present legislation, it is enough that the object of acquisition, merging entity or joint venture conducts business in Finland. The turnover derived from the object of acquisition does not have an effect on the notification obligation. Due to this, concentrations with little or no significance have to be notified to the FCA.

On the surface, it is easy to solve the problems with small legislative amendments. There is no simple solution to these two problems, however, because they are related the entire scope of application of the merger provisions, and changing parts of them without a total review of the whole is not advisable.

Changing the two-year rule would, in practice, inevitably lead to a re-assessment of the turnover thresholds of Article 11 a of Competition Act. Setting a minimum limit to the turnover derived from Finland would correspondingly require that provisions would be created for the geographical allocation of turnover and could, furthermore, complicate intervening with cases where the greatest threat to competition is the removal of competitive pressure by a potential foreign competitor and not horizontal overlaps in Finland.

Instead of the turnover of the object of acquisition derived from Finland, should we rather discuss the possibilities for the introduction of the effects doctrine, which would enable an intervention with concentrations where the competitive problems are caused by the loss of a potential competitor? A rather disconcerting example of the deficiencies of the present limits could be found in the Carlsberg/Orkla case discussed above, where the bottled water business, which had no bearing on the competitive effects as a whole, brought the arrangement within the scope of the control of concentrations.
FCA’s decisions in 2000

1. Control of concentrations

1.1 Concentrations approved at Stage I

<table>
<thead>
<tr>
<th>Company/Entity</th>
<th>Decision No</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>CapMan Capital Management Oy</td>
<td>1107/81/1999</td>
<td>11 January</td>
</tr>
<tr>
<td>Pl-Consulting plc</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Arla ekonomisk förening MD Foods a.m.b.a.</td>
<td>1117/81/1999</td>
<td>13 January</td>
</tr>
<tr>
<td>United Technologies Corporation</td>
<td>1125/81/1999</td>
<td>17 January</td>
</tr>
<tr>
<td>Electrolux Group, commercial refrigeration business</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lohja Rudus Oy Ab</td>
<td>1144/81/1999</td>
<td>17 January</td>
</tr>
<tr>
<td>Karkkilan Betonisema Oy, Karkkila Cement Station</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Novo Group plc Profi Mediat Oy, Profit Media</td>
<td>1169/81/1999</td>
<td>24 January</td>
</tr>
<tr>
<td>Deere &amp; Company Timberjack Group</td>
<td>1143/81/1999</td>
<td>26 January</td>
</tr>
<tr>
<td>Vattenfall Oy Keski-Suomen Valo Oy, Central Finland's Light</td>
<td>1099/81/1999</td>
<td>27 January</td>
</tr>
<tr>
<td>Ruokamarkkinat Oy Suni Oy, Joutsenon Hansa-myymlä, Hansa store of Joutseno</td>
<td>51/81/2000</td>
<td>28 January</td>
</tr>
<tr>
<td>Ruokamarkkinat Oy Tmi Seppo Murtovaara, Kuusamon Säästö-Rabatti, Trade name Seppo Murtovaara, Säästö-Rabatti of Kuusamo</td>
<td>52/81/2000</td>
<td>28 January</td>
</tr>
<tr>
<td>Leo Group Inc. MacManus Group Inc.</td>
<td>1172/81/1999</td>
<td>31 January</td>
</tr>
<tr>
<td>Henkel KGaA Kelsey Industries plc</td>
<td>33/81/2000</td>
<td>9 February</td>
</tr>
<tr>
<td>Illinois ToolWorks Inc. Nóteviken Ab</td>
<td>1159/81/1999</td>
<td>9 February</td>
</tr>
<tr>
<td>Baxter International Inc. Althin Medical AB</td>
<td>63/81/2000</td>
<td>16 February</td>
</tr>
<tr>
<td>Telia Product Oy Tietopuhelin companies</td>
<td>1160/81/1999</td>
<td>18 February</td>
</tr>
<tr>
<td>Oy Marli Group Ab Ecke-Granini International GmbH</td>
<td>27/81/2000</td>
<td>24 February</td>
</tr>
<tr>
<td>Oy Marli Ab</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Stora Enso Fine Papers Oy Oy Paperi-Dahleberg Ab</td>
<td>43/81/2000</td>
<td>24 February</td>
</tr>
<tr>
<td>Pirelli Cavi e Sistemi S.p.A.</td>
<td>1153/81/2000</td>
<td>28 February</td>
</tr>
<tr>
<td>Nk Energy Oy Pirkannanmaa Tehdas, Nk Energy Pirkannaa factory</td>
<td></td>
<td></td>
</tr>
<tr>
<td>ViewSonic Corporation Nokia Display Products, terminal business</td>
<td>95/81/2000</td>
<td>6 March</td>
</tr>
<tr>
<td>Company Name</td>
<td>Reference</td>
<td>Date</td>
</tr>
<tr>
<td>--------------</td>
<td>-----------</td>
<td>----------</td>
</tr>
<tr>
<td>Nopco Paper Technology Holding AS</td>
<td>126/81/2000</td>
<td>7 March</td>
</tr>
<tr>
<td>Henkel KGA, paper chemical business</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Engel Security Oy</td>
<td>165/81/2000</td>
<td>17 March</td>
</tr>
<tr>
<td>Variointi Linna</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Engel Security Oy</td>
<td>177/81/2000</td>
<td>17 March</td>
</tr>
<tr>
<td>Outokumpu Poricopper Oy, security business</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Silversmith Acquisition Corp.</td>
<td>184/81/2000</td>
<td>20 March</td>
</tr>
<tr>
<td>Sterling Software Inc.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Novogroup Oy</td>
<td>212/81/2000</td>
<td>23 March</td>
</tr>
<tr>
<td>Website Oy</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pohjois-Karjalan Osuuskauppa, Northern Karelian retail co-operative</td>
<td>116/81/2000</td>
<td>27 March</td>
</tr>
<tr>
<td>Sokos Hotels Oy</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dynatech Corporation</td>
<td>174/81/2000</td>
<td>30 March</td>
</tr>
<tr>
<td>Wavetek Wandel Goltermann</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Interpublic Group of Companies, Inc.</td>
<td>141/81/2000</td>
<td>3 April</td>
</tr>
<tr>
<td>NFO Worldwide Inc.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>OM Group Inc.</td>
<td>147/81/2000</td>
<td>3 April</td>
</tr>
<tr>
<td>Outokumpu Nickel Oy</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Holland Chemical International N.V.</td>
<td>178/81/2000</td>
<td>3 April</td>
</tr>
<tr>
<td>HCI Nordic A/S</td>
<td></td>
<td></td>
</tr>
<tr>
<td>HCI Nordic AB/Superfos Group, chemical unit</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Hemköpskedjan AB</td>
<td>209/81/2000</td>
<td>4 April</td>
</tr>
<tr>
<td>Suomen Spar, Finland’s Spar</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Atle Ab (publ)</td>
<td>1155/81/1999</td>
<td>10 April</td>
</tr>
<tr>
<td>GSH International plc</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Nokia Tyres plc</td>
<td>210/81/2000</td>
<td>11 April</td>
</tr>
<tr>
<td>Posiber Oy</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Geveke N.V.</td>
<td>294/81/2000</td>
<td>13 April</td>
</tr>
<tr>
<td>Cramo AB</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Villeroy &amp; Boch AG</td>
<td>305/81/2000</td>
<td>13 April</td>
</tr>
<tr>
<td>N.V. Koninklijke Sphinx Gustavsberg</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Formica Corporation</td>
<td>242/81/2000</td>
<td>17 April</td>
</tr>
<tr>
<td>Perstorp Surface Materials AB</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Reed Elsevier Inc.</td>
<td>157/81/2000</td>
<td>28 April</td>
</tr>
<tr>
<td>Construction Market Data Group</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Oy Parmarine Ltd</td>
<td>245/81/2000</td>
<td>28 April</td>
</tr>
<tr>
<td>Parma Metals Oy</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Grundfos Holdig AG</td>
<td>293/81/2000</td>
<td>5 May</td>
</tr>
<tr>
<td>Oy E. Sarlin Ab, pumping business</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sulzer AG, Ahlström Pumps</td>
<td>148/81/2000</td>
<td>12 May</td>
</tr>
<tr>
<td>Novo Group plc</td>
<td>388/81/2000</td>
<td>23 May</td>
</tr>
<tr>
<td>Newcontrol Oy</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Arrow Electronics Inc.</td>
<td>374/81/2000</td>
<td>24 May</td>
</tr>
<tr>
<td>Jakob Hatteland Electronic AS</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fortum plc</td>
<td>206/81/2000</td>
<td>25 May</td>
</tr>
<tr>
<td>Stora Enso plc, electric power business</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Merkantildata ASA</td>
<td>375/81/2000</td>
<td>31 May</td>
</tr>
<tr>
<td>Geotronics Group, Nordic ICT business</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Company</td>
<td>Registration No.</td>
<td>Date</td>
</tr>
<tr>
<td>----------------------------------------------</td>
<td>------------------</td>
<td>-----------</td>
</tr>
<tr>
<td>Dacke Hydraulik AB Sophus Berendsen A/S</td>
<td>413/81/2000</td>
<td>8 June</td>
</tr>
<tr>
<td>CapMan Capital Management Oy</td>
<td>393/81/2000</td>
<td>16 June</td>
</tr>
<tr>
<td>SFK Finance Oy Karelia Finland Oy</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Upofloor Oy Karelia Parketti Ltd</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3i International Holdings</td>
<td>444/81/2000</td>
<td>19 June</td>
</tr>
<tr>
<td>SFK Finance Oy</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sapa AB</td>
<td>514/81/2000</td>
<td>21 June</td>
</tr>
<tr>
<td>Sapa Autoplastics AB</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sapa AB</td>
<td>514/81/2000</td>
<td>21 June</td>
</tr>
<tr>
<td>Sanmina Corporation Essex AB</td>
<td>490/81/2000</td>
<td>22 June</td>
</tr>
<tr>
<td>CIE Management II Limited Pollyconcept S.A.</td>
<td>544/81/2000</td>
<td>30 June</td>
</tr>
<tr>
<td>CapMan Capital Management Oy Solagen Oy</td>
<td>522/81/2000</td>
<td>6 July</td>
</tr>
<tr>
<td>Eastman Chemical Company McWhorter Technologies Inc.</td>
<td>442/81/2000</td>
<td>14 July</td>
</tr>
<tr>
<td>UPM-Kymmene plc Aurekskoski Oy</td>
<td>526/81/2000</td>
<td>14 July</td>
</tr>
<tr>
<td>Danske Traelast A/S Starkki Oy</td>
<td>572/81/2000</td>
<td>14 July</td>
</tr>
<tr>
<td>Alia Group Oy Brown-Forman Corporation</td>
<td>491/81/2000</td>
<td>28 July</td>
</tr>
<tr>
<td>CapMan Capital Management Oy Eqvitec Partners Oy SecGo Group Oy</td>
<td>603/81/2000</td>
<td>28 July</td>
</tr>
<tr>
<td>Vattenfall Oy Hameenlinman Energia Oy, Hameenlinna Energy</td>
<td>658/81/2000</td>
<td>3 August</td>
</tr>
<tr>
<td>CapMan Capital Management Oy Holdem Capital Oy/Quartal Oy</td>
<td>670/81/2000</td>
<td>10 August</td>
</tr>
<tr>
<td>Psion plc</td>
<td>648/81/2000</td>
<td>18 August</td>
</tr>
<tr>
<td>Teklogix International Inc.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Kaukomarkkinat Oy Telko Oy</td>
<td>628/81/2000</td>
<td>25 August</td>
</tr>
<tr>
<td>Project Engineers Konsul Engineering Oy</td>
<td>778/81/2000</td>
<td>1 September</td>
</tr>
<tr>
<td>Gallup Finland Ltd Oberva Oy</td>
<td>775/81/2000</td>
<td>19 September</td>
</tr>
<tr>
<td>Eurodis Electron plc Ericsson Radar Electronics AB</td>
<td>824/81/2000</td>
<td>28 September</td>
</tr>
<tr>
<td>De Beers Australia Holding Pty Ltd Ashton Mining Ltd</td>
<td>737/81/2000</td>
<td>29 September</td>
</tr>
<tr>
<td>Decidenti Oy Ab Tikkurila CPS Oy’s business</td>
<td>797/81/2000</td>
<td>29 September</td>
</tr>
<tr>
<td>Swisslog Management AG Corob companies</td>
<td>819/81/2000</td>
<td>29 September</td>
</tr>
<tr>
<td>General Electric Company Smallworldwide plc.</td>
<td>823/81/2000</td>
<td>2 October</td>
</tr>
<tr>
<td>Korsnas Ab Walki Sack (UPM Kymmene plc)</td>
<td>841/81/2000</td>
<td>12 October</td>
</tr>
<tr>
<td>Company</td>
<td>Reference</td>
<td>Date</td>
</tr>
<tr>
<td>---------------------------------</td>
<td>-----------</td>
<td>-----------</td>
</tr>
<tr>
<td>PI-Consulting plc</td>
<td>853/81/2000</td>
<td>12 October</td>
</tr>
<tr>
<td>Siemens Oy, ‘Project execution’ business</td>
<td></td>
<td></td>
</tr>
<tr>
<td>LGP Telecom Holding AB</td>
<td>868/81/2000</td>
<td>12 October</td>
</tr>
<tr>
<td>Allgon AB</td>
<td></td>
<td></td>
</tr>
<tr>
<td>NCC AB</td>
<td>901/81/2000</td>
<td>12 October</td>
</tr>
<tr>
<td>Rieber &amp; Sen ASA, Roads business</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Profipri Oy</td>
<td>918/81/2000</td>
<td>18 October</td>
</tr>
<tr>
<td>Oy Panda Ab</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lemminkäinen plc</td>
<td>855/81/2000</td>
<td>23 October</td>
</tr>
<tr>
<td>Tekmanni Oy</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Flavors &amp; Fragrances Inc.</td>
<td>967/81/2000</td>
<td>23 October</td>
</tr>
<tr>
<td>Bush Boake Allen Inc.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Engel Palvelut Oy</td>
<td>933/81/2000</td>
<td>30 October</td>
</tr>
<tr>
<td>Vantaan Talotaito Oy</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Teijin Limited</td>
<td>951/81/2000</td>
<td>3 November</td>
</tr>
<tr>
<td>Johns Manville International Inc, monofilament business</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ripplewood Holdings L.L.C</td>
<td>977/81/2000</td>
<td>3 November</td>
</tr>
<tr>
<td>Royal Dutch Shell Group, elastomer business</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Vattenfall Ab</td>
<td>1043/81/2000</td>
<td>10 November</td>
</tr>
<tr>
<td>Pamilo Oy</td>
<td></td>
<td></td>
</tr>
<tr>
<td>De Sammensluttede Vognmænd</td>
<td>964/81/2000</td>
<td>10 November</td>
</tr>
<tr>
<td>af 13–07 1976 A/S</td>
<td></td>
<td></td>
</tr>
<tr>
<td>DFDS Dan Transport Group A/S</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Novo Group plc</td>
<td>1000/81/2000</td>
<td>14 November</td>
</tr>
<tr>
<td>Citisoft Oy and Herbitt Oy</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Novo Group plc</td>
<td>1003/81/2000</td>
<td>14 November</td>
</tr>
<tr>
<td>Contrain Oy</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Novo Group plc</td>
<td>1005/81/2000</td>
<td>14 November</td>
</tr>
<tr>
<td>Karjalan Tietovalta -konsemi, Tietovalta Group, Karelia</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Nokia Tyres plc</td>
<td>974/81/2000</td>
<td>15 November</td>
</tr>
<tr>
<td>Kumi-Salama Ry</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Remec Inc.</td>
<td>1063/81/2000</td>
<td>17 November</td>
</tr>
<tr>
<td>Novo Group plc</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Atuline Oy</td>
<td>1018/81/2000</td>
<td>21 November</td>
</tr>
<tr>
<td>Finland’s Spar plc</td>
<td>1048/81/2000</td>
<td>20 November</td>
</tr>
<tr>
<td>Iisalmen Euromarketin liiketoiminta, Euromarket business of Iisalmi</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bakelite Oy</td>
<td>985/81/2000</td>
<td>22 November</td>
</tr>
<tr>
<td>Dynoresin Oy, industrial glue business</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cofflexip S.A.</td>
<td>1039/81/2000</td>
<td>24 November</td>
</tr>
<tr>
<td>Aker Maritime ASA, deep sea business</td>
<td></td>
<td></td>
</tr>
<tr>
<td>MD Systems</td>
<td>1084/81/2000</td>
<td>1 December</td>
</tr>
<tr>
<td>Jarjestöjen Tietotekniikka JTT Oy</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Espe Group Oy</td>
<td>1088/81/2000</td>
<td>1 December</td>
</tr>
<tr>
<td>Finlayson Oy</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Travelex plc</td>
<td>1092/81/2000</td>
<td>5 December</td>
</tr>
<tr>
<td>Thomas Cook Global and Financial Services business</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### 1.2 Concentrations transferred to stage II

<table>
<thead>
<tr>
<th>Company/Merger Details</th>
<th>Reference Number</th>
<th>Decision Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Boots Company plc, Procter &amp; Gamble Company’s assets related to the Clearasil trademark</td>
<td>1109/81/2000</td>
<td>5 December</td>
</tr>
<tr>
<td>Rheinische Kunststoffwerke GmbH, UPM-Kymmene Oy’s PE film and sack business, Pori</td>
<td>1091/81/2000</td>
<td>12 December</td>
</tr>
<tr>
<td>PT Holding Limited, Peek Limited</td>
<td>1127/81/2000</td>
<td>14 December</td>
</tr>
<tr>
<td>Kemira plc, Alcro-Beckers AB</td>
<td>1072/81/2000</td>
<td>21 December</td>
</tr>
<tr>
<td>Elisa Communications plc, Louma-Suomen Puhelin Oy, South-western Finland Telephone</td>
<td>1076/81/2000</td>
<td>22 December</td>
</tr>
<tr>
<td>Rheinische Kunststoffwerke GmbH, UPM-Kymmene Oy’s PE film and sack business, Pori</td>
<td>1091/81/2000</td>
<td>12 December</td>
</tr>
<tr>
<td>PT Holding Limited, Peek Limited</td>
<td>1127/81/2000</td>
<td>14 December</td>
</tr>
<tr>
<td>Kemira plc, Alcro-Beckers AB</td>
<td>1072/81/2000</td>
<td>21 December</td>
</tr>
<tr>
<td>Elisa Communications plc, Louma-Suomen Puhelin Oy, South-western Finland Telephone</td>
<td>1076/81/2000</td>
<td>22 December</td>
</tr>
<tr>
<td>Rheinische Kunststoffwerke GmbH, UPM-Kymmene Oy’s PE film and sack business, Pori</td>
<td>1091/81/2000</td>
<td>12 December</td>
</tr>
<tr>
<td>PT Holding Limited, Peek Limited</td>
<td>1127/81/2000</td>
<td>14 December</td>
</tr>
<tr>
<td>Kemira plc, Alcro-Beckers AB</td>
<td>1072/81/2000</td>
<td>21 December</td>
</tr>
<tr>
<td>Elisa Communications plc, Louma-Suomen Puhelin Oy, South-western Finland Telephone</td>
<td>1076/81/2000</td>
<td>22 December</td>
</tr>
</tbody>
</table>

**Conditional approval of concentration**

<table>
<thead>
<tr>
<th>Company/Merger Details</th>
<th>Reference Number</th>
<th>Decision Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fritidsresor Holding AB, Oy Finnmatkat-Finntours Ab</td>
<td>1076/8/1999</td>
<td>5 April</td>
</tr>
<tr>
<td>Säkkivaline Puhtaanaapito Oy, WM Ympäristöpalvelut Oy</td>
<td>49/8/2000</td>
<td>10 April</td>
</tr>
<tr>
<td>Sonera plc, Yleisradio Oy, Digita Oy</td>
<td>1010/8/1999</td>
<td>17 April</td>
</tr>
<tr>
<td>Helsingin Puhelin plc, Tampereen Puhelin plc, Keski-Suomen Puhelin plc, Oy Finnet International Ab</td>
<td>1056/8/1999</td>
<td>27 April</td>
</tr>
</tbody>
</table>
Valio Oy  
Kainuu Osuusmeijeri  
Osuuskunta Maito-Pirkka  
Aito Maito Fin Oy  
Conditional approval of concentration  
1151/81/1999  
20 June

Lincoln Electric Holdings Inc. Charter Plc  
Approval of concentration  
441/81/2000  
6 September

EQT Scandinavia Limited Rosenlew Retail Products  
Conditional approval of concentration  
565/81/2000  
3 November

1. 3 Other concentration decisions

Neles Paper Automation plc V.I.B. Systems GmbH  
Suspension of proceedings  
233/81/2000  
27 April

Novo Group plc Polijpan Palkkatielo Oy  
Decision not to investigate  
1006/81/2000  
14 November

Novo Group plc Jasokraft Oy  
Decision not to investigate  
1004/81/2000  
14 November

Finlines plc Transfennica Oy  
Suspension of proceedings, acquisition cancelled after concentration notification  
607/81/2000  
15 December

2. Exemptions and negative clearance

Mariehamns Telefon Ab Ålands Telefonandelslag, Godby  
Exemption to telephone book cooperation  
969/65/1999  
10 February

Suomen Vahinkotarkastus SVT Oy  
Exemption to price cooperation  
44/67/2000  
18 February

JV Oy  
Exemption to price cooperation, and to agreements limiting production and dividing markets and sources of supply  
1116/62/1999  
22 February

Isoworks Oy Sonera Systems Oy ICL Data Oy  
Exemption to joint venture and the price cooperation included  
963/65/1999  
3 April

Voimatori Oy  
Exemption to sales and marketing cooperation of electricity  
168/67/2000  
19 April

Lahontorjuntayhdistys ry Kestopuu Oy  
Negative clearance and exemption to sales promotion payment system maintained in the marketing of impregnated wood  
688/62/1999  
17 May

Certall Finland Oy  
Exemption to cooperation between shareholders  
405/65/1999  
19 May

Kymppivoima Oy  
Exemption to price cooperation  
159/67/2000  
25 August

Kymppivoima Oy  
Exemption to sales and purchasing cooperation  
593/67/2000  
25 August

Voimarengas Oy  
Suspension of exemption to the purchasing and sales cooperation of electricity  
1157/67/1999  
28 August

Yellow Pages, Finland  
Exemption to price cooperation conducted in the supply of electronic company index  
26/67/2000  
29 August
<table>
<thead>
<tr>
<th>Business undertaking or undertaking whom the complaint concerned:</th>
<th>The object of investigation (complainant in the brackets):</th>
<th>Date of decision</th>
<th>Day of decision</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lehtikuva Oy picture agency</td>
<td>Alleged abuse of dominant position in the news picture service market (Pressfoto Ltd Oy)</td>
<td>10/61/1997</td>
<td>10 January</td>
</tr>
<tr>
<td>Kymen Puhelin Oy</td>
<td>Potential abuse of dominant position in the network and routing services (Welcom Net Oy)</td>
<td>782/61/1998</td>
<td>12 January</td>
</tr>
<tr>
<td>Sonera Oy</td>
<td>Alleged competition restraint in the pricing of national roaming (Telia Finland Oy)</td>
<td>817/61/1998</td>
<td>12 January</td>
</tr>
<tr>
<td>Oy Uponor Ab</td>
<td>Alleged restrictive horizontal cooperation in the manufacture and sales of plastic pipes (own initiative)</td>
<td>495/61/1997</td>
<td>18 January</td>
</tr>
<tr>
<td>Finnkino Oy</td>
<td>Alleged abuse of dominant position (committee formed by 23 video retailers)</td>
<td>131/61/1999</td>
<td>26 January</td>
</tr>
<tr>
<td>Municipality of Rääkkylä</td>
<td>Pricing of district heating (Reijo Karppanen)</td>
<td>801/61/1999</td>
<td>26 January</td>
</tr>
<tr>
<td>City of Jyväskylä</td>
<td>Provision of dental services (Suomen Hammaslääkäritilo ty)</td>
<td>1059/61/1997</td>
<td>27 January</td>
</tr>
<tr>
<td>Forest and Park Service/Wild North</td>
<td>Alleged abuse of dominant position in the tender of programme services (Gold Safaris Oy)</td>
<td>780/61/1999</td>
<td>27 January</td>
</tr>
<tr>
<td>Finnish Maritime Administration/Gulf of Finland Maritime District</td>
<td>Contracting operations (Maarakentajien Oulun piiriyhdistys ty)</td>
<td>1181/68/1999</td>
<td>27 January</td>
</tr>
<tr>
<td>Tamro plc/KD Tukku Oy</td>
<td>Changes in the wholesales of medicines and one channel distribution (Oriola Oy)</td>
<td>213/61/1999</td>
<td>1 February</td>
</tr>
</tbody>
</table>

3. Other decisions

<table>
<thead>
<tr>
<th>Business undertaking or undertaking whom the complaint concerned:</th>
<th>The object of investigation (complainant in the brackets):</th>
<th>Date of decision</th>
<th>Day of decision</th>
</tr>
</thead>
<tbody>
<tr>
<td>Suomen Nettirahastot Oy</td>
<td>Negative clearance</td>
<td>622/67/2000</td>
<td>20 September</td>
</tr>
<tr>
<td>Savon Mediat Oy</td>
<td>Exemption and negative clearance to the price cooperation and limiting of production conducted in the supply of the Savohaku indexing service</td>
<td>890/67/2000</td>
<td>12 October</td>
</tr>
<tr>
<td>Atria Oy</td>
<td>Exemption to horizontal cooperation in the slaughtering and cutting of beef and the sales of hides</td>
<td>302/67/2000</td>
<td>30 October</td>
</tr>
<tr>
<td>Liha-alan Kuljetusvaliokunta LIHAVA</td>
<td>Exemption to price cooperation</td>
<td>126/67/1997</td>
<td>1 November</td>
</tr>
<tr>
<td>Suomen 2G Oy</td>
<td>Negative clearance and exemption to price cooperation conducted in the national GSM mobile network and trunk network business operations</td>
<td>602/67/2000</td>
<td>15 December</td>
</tr>
<tr>
<td>Company/Group</td>
<td>Alleged Violation</td>
<td>Reference</td>
<td>Date</td>
</tr>
<tr>
<td>---------------</td>
<td>------------------</td>
<td>-----------</td>
<td>------</td>
</tr>
<tr>
<td>Varitukku Oy, Vantaa</td>
<td>Alleged violation of Articles 4, 6 and 9 of the Competition Act in the Värisilmä Group</td>
<td>84/61/1998</td>
<td>22 February</td>
</tr>
<tr>
<td>Electrolux Group, Forest and Garden Equipment</td>
<td>Pricing and marketing of Husqvarna products (Konetoimi Oy)</td>
<td>119/61/1999</td>
<td>3 March</td>
</tr>
<tr>
<td>Helsingin Puhelin Plc, Helsinki Telephone</td>
<td>Competition restraints involved in telecom service agreements (RSL Com Finland Oy)</td>
<td>122/61/1999</td>
<td>10 March</td>
</tr>
<tr>
<td>Turunmaa Hospital</td>
<td>Sales of health care research services (Tohtoritalo 41400 Oy)</td>
<td>343/61/1997</td>
<td>17 March</td>
</tr>
<tr>
<td>Turun Puhelin Oy, Turku Telephone</td>
<td>Pricing of DCS CITY mobile connections (group of business undertakings and private citizens who are customers of Turun Puhelin Oy)</td>
<td>81/61/2000</td>
<td>21 March</td>
</tr>
<tr>
<td>Lakeuden Keskuspuhdistamo Oy</td>
<td>Handling fee of sewage (Antti Aavarinne)</td>
<td>1056/61/1998</td>
<td>6 April</td>
</tr>
<tr>
<td>Kemira Chemicals Oy</td>
<td>Alleged abuse of dominance in traffic marking works (Ajoratamerkintä Mäki &amp; Palmroos Oy, E. Kujansuu Ky, Tielinja Oy, Tiemerkinä A &amp; E Oy, Tiemerkinä Bitatani Ky, Valtatie Oy)</td>
<td>350/61/1999</td>
<td>2 May</td>
</tr>
<tr>
<td>Kalevala Jewellery</td>
<td>Alleged RPM (Finnish Consumer Agency)</td>
<td>344/61/1999</td>
<td>15 May</td>
</tr>
<tr>
<td>Olvi Oy</td>
<td>Alleged competition restraint in the sales of beer (Jussiwihonen Oy)</td>
<td>60/61/1999</td>
<td>15 May</td>
</tr>
<tr>
<td>Sandrew Metronome Distribution Finland Oy</td>
<td>Alleged competition restraint in the wholesaling of rental videos (Suomen Elokuvahalli Oy)</td>
<td>117/61/1996</td>
<td>25 May</td>
</tr>
<tr>
<td>Metsälätto Oy Osuuskunta</td>
<td>Alleged bidding cooperation, division of sources of supply and information exchange in the sales of raw wood (own initiative)</td>
<td>196/61/1997</td>
<td>5 June</td>
</tr>
<tr>
<td>Suomen Fysioteraptiyrittäjät FYSt ry</td>
<td>Non-competition clause in the model agreements of physical therapy treatment centres and the physiotherapists operating in the premises (Suomen Fysioterapeutiliitto ry)</td>
<td>63/61/1999</td>
<td>6 June</td>
</tr>
<tr>
<td>Movera Oy</td>
<td>Alleged abuse of dominant position in the transport business (Suomen Kuorma-autoiliitto – Sopimusliikenne ry)</td>
<td>272/61/1998</td>
<td>7 June</td>
</tr>
<tr>
<td>Biotech Machinery Oy</td>
<td>Duration of non-competition clause in a merger (Matti Sinkkonen)</td>
<td>464/61/1999</td>
<td>7 June</td>
</tr>
<tr>
<td>Municipality of Suomussalmi</td>
<td>Rented labour, pricing below costs (Kainuun Kuutamoilekat osuuskunta)</td>
<td>432/68/1999</td>
<td>7 June</td>
</tr>
<tr>
<td>Rautakirja Plc (Lehtipiste)</td>
<td>Pricing in newspaper wholesaling (own initiative)</td>
<td>672/61/1998</td>
<td>19 June</td>
</tr>
<tr>
<td>Supplementary services of the banks' real estate business (Lounais-Suomen Maaseutuvalitys Oy Ltv)</td>
<td></td>
<td>235/61/2000</td>
<td>19 June</td>
</tr>
<tr>
<td>---</td>
<td>---</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>Keski-Suomen Aluetaks Oy 12 taxi drivers from Kivijarvi</td>
<td>Bidding cartel in the transport of school children in the municipality of Kivijarvi (own initiative)</td>
<td>782/61/1997</td>
<td>27 June</td>
</tr>
<tr>
<td>Finnish Composers’ Copyright Society</td>
<td>Alleged abuse of dominant position in the pricing of musical performances by commercial radio stations (Reissuradio)</td>
<td>142/61/2000</td>
<td>28 June</td>
</tr>
<tr>
<td>Helsingin Puhelin plc, Helsinki Telephone</td>
<td>Alleged competition restraint in the pricing of pre-selection of foreign calls (Johannes F. Linden Ltd)</td>
<td>260/61/2000</td>
<td>29 June</td>
</tr>
<tr>
<td>Oy Veikkaus Ab, Finnish pools</td>
<td>Refusal to deliver online terminal to a lottery agent (Ylhta-Burger mni Katri Vaalima)</td>
<td>539/61/1997</td>
<td>30 June</td>
</tr>
<tr>
<td>Helsingin Puhelin plc, present Elisa Communications</td>
<td>Alleged abuse of dominant position in the pricing of the reconnection of a closed fixed subscription (Gideon Botolowsky)</td>
<td>134/61/2000</td>
<td>6 July</td>
</tr>
<tr>
<td>Metsäliitto Osuuskunta Stora Enso plc UPM-Kymmene plc</td>
<td>Standing and purchasing trade in the raw wood market (Ekmetsätalouden liitto ry)</td>
<td>1068/61/1998</td>
<td>12 July</td>
</tr>
<tr>
<td>Kemira Agro Oy</td>
<td>Abuse of dominant position in the fertilizer market (Hankintaosuuskunta Hansu)</td>
<td>157/61/1996</td>
<td>25 July</td>
</tr>
<tr>
<td>City of Pyhäjarvi</td>
<td>Termination of an agreement on procured services (Pyhäsalmi palvelukoti Jaatinen Oy)</td>
<td>1061/68/1998</td>
<td>25 July</td>
</tr>
<tr>
<td>K-Plus Oy Sonera plc</td>
<td>Regular customer scheme (Finnet-liitto ry)</td>
<td>373/61/2000</td>
<td>4 August</td>
</tr>
<tr>
<td>Metsäliitto Osuuskunta Stora Enso plc UPM-Kymmene plc</td>
<td>Price cooperation in the import of raw wood (Central Union of Agricultural Producers and Forest Owners)</td>
<td>934/61/1999</td>
<td>5 September</td>
</tr>
<tr>
<td>Vapo Oy</td>
<td>Abuse of dominant position in the energy peat market (own initiative)</td>
<td>267/61/1994</td>
<td>5 September</td>
</tr>
<tr>
<td>Municipality of Muonio</td>
<td>Pricing of water maintenance in the region of Olostartunturi (Olostartunturin asukasyhdistys ry)</td>
<td>507/61/2000</td>
<td>20 September</td>
</tr>
<tr>
<td>Finland Post Ltd</td>
<td>Price increases of letter rates payable by cash (Seppo Lassinpelto)</td>
<td>442/61/1999</td>
<td>11 October</td>
</tr>
<tr>
<td>Helsingin Puhelin plc, Helsinki Telephone</td>
<td>Pricing of telephone and ISDN connections (Easytel Oy)</td>
<td>149/61/1999</td>
<td>13 October</td>
</tr>
<tr>
<td>Sonera plc</td>
<td>Alleged abuse of dominant position in replying to an NMT exchange offer (Oy Radiolinja Ab)</td>
<td>777/61/2000</td>
<td>19 October</td>
</tr>
<tr>
<td>Kopioisto ry, Finnish copyright organisation</td>
<td>Alleged abuse of dominant position in the pricing of copying compensations of copyrighted material (Teollisuuden ja Työnantajain Keskusliitto)</td>
<td>752/61/1999</td>
<td>6 November</td>
</tr>
<tr>
<td>Suomen Apteekkariliitto, Finnish Pharmacists’ Association 51 pharmacies from Helsinki</td>
<td>Procedure in a bidding cartel arranged by the city of Helsinki on medicine and health care supply purchases (City of Helsinki)</td>
<td>26/61/1999</td>
<td>10 November</td>
</tr>
<tr>
<td>Sonera plc</td>
<td>Alleged abuse of dominant position in the supply of Skala agreements (Finnet Association)</td>
<td>382/61/2000</td>
<td>30 November</td>
</tr>
<tr>
<td>Saunatec plc Sauna-Eurox Oy</td>
<td>Sauna stove and sauna stove stone deliveries (Jussiwhinen Oy)</td>
<td>115/61/2000</td>
<td>15 December</td>
</tr>
<tr>
<td>Organization</td>
<td>Description</td>
<td>Reference</td>
<td>Date</td>
</tr>
<tr>
<td>-----------------------------------</td>
<td>-----------------------------------------------------------------------------</td>
<td>--------------------</td>
<td>------------</td>
</tr>
<tr>
<td>Oy Veikkaus Ab</td>
<td>Refusal to deliver an online terminal to a kiosk cafe (Kioski-Kahvio Eila Yaqud)</td>
<td>838/61/1997</td>
<td>20 December</td>
</tr>
<tr>
<td>Ekokem Oy Ab</td>
<td>Alleged abuse of dominant position and forbidden cooperation with collectors (own initiative)</td>
<td>839/61/1996</td>
<td>21 December</td>
</tr>
<tr>
<td>Imatran Seudun Sähkö Oy</td>
<td>Regular customer rebates in the sales of electricity (Kainuu Sähkö Oy)</td>
<td>320/61/2000</td>
<td>22 December</td>
</tr>
<tr>
<td>Leppäkosken Sähkö Oy</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Nurmijärven Sähkö Oy</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Oulunseudun Sähkö</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rauman Energia Oy</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Vakka-Suomen Voima Oy</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Valkeakosken Energia Oy</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### FCA’s proposals to the Competition Council in 2000

<table>
<thead>
<tr>
<th>Organization</th>
<th>Proposal Description</th>
<th>Reference</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kamera-lehti; Kameraseura ry</td>
<td>Proposal to forbid a competition restraint under Article 7, paragraph 1, of the Competition Act and the imposing of a competition infringement fine</td>
<td>552/61/1998</td>
<td>19 January</td>
</tr>
<tr>
<td>Turun Puhelin Oy</td>
<td>Proposal to forbid a competition restraint violating the prohibitions in Article 7 of the Competition Act and the imposing of an infringement fine</td>
<td>482/61/1996</td>
<td>2 February</td>
</tr>
<tr>
<td>Salon Seudun Puhelin Oy</td>
<td>Proposal to forbid a competition restraint violating the prohibitions in Article 7 of the Competition Act and the imposing of an infringement fine</td>
<td>483/61/1996</td>
<td>2 February</td>
</tr>
<tr>
<td>Metsälitto Osuuskunta Stora Enso plc UPM-Kymmene plc</td>
<td>Proposal to forbid a competition restraint violating the prohibitions in Article 6 of the Competition Act and the imposing of an infringement fine</td>
<td>196/61/1997</td>
<td>21 March</td>
</tr>
<tr>
<td>Finnish Meteorological Institute</td>
<td>Proposal to detect a competition restraint under Article 7, paragraphs 1 and 2, and the imposing of an infringement fine</td>
<td>721/61/1999</td>
<td>2 June 2000</td>
</tr>
<tr>
<td>Sonera Finnish Broadcasting Company, Digita</td>
<td>Proposal to ban a concentration</td>
<td>1010/81/1999</td>
<td>17 April 2000</td>
</tr>
<tr>
<td>City of Helsinki Port of Helsinki</td>
<td>Proposal to forbid a competition restraint under Article 7, paragraph 4, of the Competition Act</td>
<td>549/61/1993</td>
<td>25 August</td>
</tr>
<tr>
<td>City of Kuopio Kuopio Energy</td>
<td>Proposal to forbid a competition restraint under Article 7, paragraph 4, of the Competition Act and the imposing of an infringement fine</td>
<td>517/61/1996</td>
<td>19 December</td>
</tr>
</tbody>
</table>
FCA’s initiatives and statements in 2000

1. Initiatives

<table>
<thead>
<tr>
<th>Ministry of Trade and Industry</th>
<th>Competitive distortions caused by value added tax 344/71/2000</th>
<th>23 May</th>
</tr>
</thead>
<tbody>
<tr>
<td>National Emergency Supply Agency</td>
<td>Tendering the security storage of grain 545/71/2000</td>
<td>14 June</td>
</tr>
</tbody>
</table>

2. Statements

<table>
<thead>
<tr>
<th>Ministry of Transport and Communications</th>
<th>Act on the protection of the services of the information society 1101/72/1999</th>
<th>4 January</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ministry of Finance</td>
<td>Centralising book-entries to the Finnish Central Securities Depository 349/72/1999</td>
<td>10 January</td>
</tr>
<tr>
<td>Ministry of Transport and Communications</td>
<td>Amendment of Telecommunications Market Act 1122/72/1999</td>
<td>12 January</td>
</tr>
<tr>
<td>Ministry of the Environment</td>
<td>Decision by the Council of State on the waste disposal of electric and electronic garbage 1087/72/1999</td>
<td>13 January</td>
</tr>
<tr>
<td>Ministry of the Environment</td>
<td>Proposal for rules and regulations on planners and supervisors of ventilation and water and sewer equipment of real estates 35/72/2000</td>
<td>31 January</td>
</tr>
<tr>
<td>Forest and Park Service</td>
<td>Acceptability of licence fees of the lure fishing project of Tornionjoki-Muonionjoki-Könkämäeno 1006/72/1999</td>
<td>4 February</td>
</tr>
<tr>
<td>Ministry of Trade and Industry</td>
<td>Report by foodstuff industry 106/72/2000</td>
<td>18 February</td>
</tr>
<tr>
<td>Ministry of Transport and Communications</td>
<td>Creating EU regional domain name to the Internet name system 137/72/2000</td>
<td>18 February</td>
</tr>
<tr>
<td>Ministry of Education</td>
<td>Arranging junior football tournaments 296/72/1999</td>
<td>21 February</td>
</tr>
<tr>
<td>Ministry of Transport and Communications</td>
<td>Licence application by Suomen Suurmainonta Oy 520/72/1999</td>
<td>24 February</td>
</tr>
<tr>
<td>Telecommunications Administration Centre</td>
<td>Accordance to standards of radio and telecommunications terminal equipment 167/72/2000</td>
<td>6 March</td>
</tr>
<tr>
<td>Ministry of Agriculture and Forestry</td>
<td>Draft for a Government proposal on the reform of water supply legislation 91/72/2000</td>
<td>10 March</td>
</tr>
<tr>
<td>Ministry of the Environment</td>
<td>Proposal for rules and regulations on the planners and foremen of bearing constructions 158/72/2000</td>
<td>16 March</td>
</tr>
<tr>
<td>Ministry</td>
<td>Description</td>
<td>Date</td>
</tr>
<tr>
<td>----------------------------------------------</td>
<td>-----------------------------------------------------------------------------</td>
<td>------------</td>
</tr>
<tr>
<td>Ministry of Social Affairs and Health</td>
<td>Competitive investigation of employee pension scheme</td>
<td>107/72/2000</td>
</tr>
<tr>
<td>Ministry of Transport and Communications</td>
<td>Distribution of GSM 900 network frequencies</td>
<td>229/72/2000</td>
</tr>
<tr>
<td>Ministry of Social Affairs and Health</td>
<td>Government proposal for Acts to amend Article 102 of the Pension Fund Act and Article 135 of the Insurance Fund Act</td>
<td>262/72/2000</td>
</tr>
<tr>
<td>Ministry of Justice of Finland</td>
<td>Ombudsman’s proposal on indispensable services</td>
<td>155/72/2000</td>
</tr>
<tr>
<td>National Road Administration</td>
<td>Standard draft commissioned by the EC Commission for the competence rating of construction companies in public procurements</td>
<td>313/72/2000</td>
</tr>
<tr>
<td>Ministry of the Environment</td>
<td>Proposal to the Council of State for a Decree on sulphur content of heating oil and gas oil</td>
<td>311/72/2000</td>
</tr>
<tr>
<td>Ministry of Transport and Communications</td>
<td>Government proposal for a Postal Service Act</td>
<td>405/72/2000</td>
</tr>
<tr>
<td>Ministry of Finance</td>
<td>Proposal to reform credit institution legislation</td>
<td>248/72/2000</td>
</tr>
<tr>
<td>Ministry of Transport and Communications</td>
<td>Report on the possibilities to make a state enterprise of the Finnish Maritime Administration</td>
<td>258/72/2000</td>
</tr>
<tr>
<td>Finance Committee of the Parliament</td>
<td>Government proposal 40/2000 Council of State decision to amend the tax table attached to the Act on soft drink tax</td>
<td>462/72/2000</td>
</tr>
<tr>
<td>Telecommunications Administration Centre</td>
<td>Finnish domain names of the Internet network</td>
<td>470/72/2000</td>
</tr>
<tr>
<td>Ministry of Transport and Communications</td>
<td>Public transport strategy by Ministry of Transportand Communications</td>
<td>443/72/2000</td>
</tr>
<tr>
<td>Ministry of Transport and Communications</td>
<td>Funding of major traffic projects</td>
<td>482/72/2000</td>
</tr>
<tr>
<td>Statistics Finland</td>
<td>Working group proposal to develop energy statistics</td>
<td>523/72/2000</td>
</tr>
<tr>
<td>Financial Supervision Authority</td>
<td>Terms of agreement of credit institutions</td>
<td>534/72/2000</td>
</tr>
<tr>
<td>Ministry of Justice of Finland</td>
<td>Report by the Competition and Market Court working group</td>
<td>500/72/2000</td>
</tr>
<tr>
<td>Ministry of Trade and Industry</td>
<td>Proposal for a directive on the promotion of electricity produced on renewable energy sources in the internal market of electricity</td>
<td>541/72/2000</td>
</tr>
<tr>
<td>Ministry of the Environment</td>
<td>Proposals for Directives on electric and electronic device junk and the restricting of some dangerous substances in electric and electronic devices</td>
<td>696/72/2000</td>
</tr>
<tr>
<td>Ministry of Transport and Communications</td>
<td>Statement on proposal for a Railway Act and an Act on the Finnish Rail Administration</td>
<td>604/72/2000</td>
</tr>
<tr>
<td>Ministry of Trade and Industry</td>
<td>Amendment of EC Directives on public procurements</td>
<td>686/72/2000</td>
</tr>
<tr>
<td>Transport and Communications Committee of the Parliament</td>
<td>Government proposal 74/2000 for Postal Service Act</td>
<td>837/72/2000</td>
</tr>
<tr>
<td>Ministry of Transport and Communications</td>
<td>On the differentiated supply of subscriber lines</td>
<td>846/72/2000</td>
</tr>
<tr>
<td>Ministry of Social Affairs and Health</td>
<td>On the proposal to amend certain provisions of the Medicine Decree</td>
<td>793/61/2000</td>
</tr>
<tr>
<td>Energy Market Authority</td>
<td>Drafts for regulations by the Energy Market Authority on the publication of the sales terms and prices of the natural gas network services and reporting to the natural gas market authority</td>
<td>809/72/2000</td>
</tr>
<tr>
<td>Ministry of Transport and Communications</td>
<td>On common legislative development for networks and services of electric communications</td>
<td>846/72/2000</td>
</tr>
<tr>
<td>Ministry of Finance</td>
<td>Draft for a Nordic provisioning agreement</td>
<td>887/72/2000</td>
</tr>
<tr>
<td>Ministry of Agriculture and Forestry</td>
<td>Draft proposal on the proposed charges of outputs of forest centres and the forest economy development centre Tapio</td>
<td>843/72/2000</td>
</tr>
<tr>
<td>Ministry of Trade and Industry</td>
<td>Report by working group 2 on the separation of electric business operations</td>
<td>852/72/2000</td>
</tr>
<tr>
<td>Ministry of Transport and Communications</td>
<td>Legislative framework on radio frequency policy</td>
<td>846/72/2000</td>
</tr>
<tr>
<td>Ministry of Transport and Communications</td>
<td>Rights to use networks and operations and interconnection</td>
<td>846/72/2000</td>
</tr>
<tr>
<td>Ministry of Transport and Communications</td>
<td>Amendment of communications legislation</td>
<td>846/72/2000</td>
</tr>
<tr>
<td>Ministry of Transport and Communications</td>
<td>Public service obligation</td>
<td>846/72/2000</td>
</tr>
<tr>
<td>Ministry of Transport and Communications</td>
<td>Draft proposal to amend the Act on licensed goods traffic on roads</td>
<td>927/72/2000</td>
</tr>
<tr>
<td>Transport and Communications Committee of the Parliament</td>
<td>Government proposal to Parliament on the amendment of the Telecommunications Market Act</td>
<td>999/05/2000</td>
</tr>
<tr>
<td>Regional Administration of Southern Finland</td>
<td>The technical centre of the police as a producer of commercially priced outputs</td>
<td>991/72/2000</td>
</tr>
<tr>
<td>Ministry of Trade and Industry</td>
<td>Report by the energy conservation working group</td>
<td>1103/72/2000</td>
</tr>
<tr>
<td>Telecommunications Administration Centre</td>
<td>Numbering of the general telephone network</td>
<td>100/72/2000</td>
</tr>
<tr>
<td>Ministry of Justice of Finland</td>
<td>Amendment of Consumer Protection Act</td>
<td>1037/72/2000</td>
</tr>
<tr>
<td>Ministry of Transport and Communications</td>
<td>Decree on the interconnection of telecommunications networks and services of telecommunications companies</td>
<td>1126/72/2000</td>
</tr>
<tr>
<td>Ministry of the Interior</td>
<td>Renewing of the operating permits of Finnish Pools and Suomen Hippos and founding a company called Fintot Oy</td>
<td>1132/72/2000</td>
</tr>
<tr>
<td>Ministry of Social Affairs and Health</td>
<td>Grounds of fees paid to insurance brokers</td>
<td>1190/72/2000</td>
</tr>
<tr>
<td>Ministry of Trade and Industry</td>
<td>Commission report on the resales and maintenance services of motor vehicles</td>
<td>1152/72/2000</td>
</tr>
</tbody>
</table>
## Competition Council’s decisions within the field of the FCA in 2000

<table>
<thead>
<tr>
<th>Company/Proposal/Event</th>
<th>Description</th>
<th>Decision Number</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jakob Lehto (575/61/1999)</td>
<td>Appeal on the FCA’s decision on the arranging of the winter maintenance of streets in the city of Helsinki</td>
<td>115/690/1999</td>
<td>28 February</td>
</tr>
<tr>
<td>Kaarlo Ahmaoja (282/68/1999)</td>
<td>Appeal on the FCA’s decision to suspend proceedings</td>
<td>84/690/1999</td>
<td>28 February</td>
</tr>
<tr>
<td>Päijät-Hameen Puhelinhyödyistys (615/61/1998)</td>
<td>FCA’s proposal to forbid a competition restraint under Article 7, paragraphs 1, 2 and 4 of the Competition Act (interim decision)</td>
<td>69/690/1999</td>
<td>28 February</td>
</tr>
<tr>
<td>Viarex Oy (665/71/1999)</td>
<td>Appeal on FCA’s decision on the delivery of asphalt mass</td>
<td>103/690/1999</td>
<td>27 March</td>
</tr>
<tr>
<td>Rauman Tenniskeskus Oy (221/68/1998)</td>
<td>Appeal on FCA’s decision on the pricing of the sports facilities owned and governed by the city of Rauma</td>
<td>57/60/1999</td>
<td>10 April 2000</td>
</tr>
<tr>
<td>Sonera Oy Yleisradio Oy, Digita Oy (1010/81/1999)</td>
<td>FCA’s proposal to ban the Digita acquisition (interim decision)</td>
<td>53/690/2000</td>
<td>9 May</td>
</tr>
<tr>
<td>Sonera plc Yleisradio Oy, Digita Oy (1010/81/1999)</td>
<td>FCA’s proposal to ban the Digita acquisition</td>
<td>53/690/2000</td>
<td>9 July</td>
</tr>
<tr>
<td>Matti Partanen (1049/61/1997)</td>
<td>Appeal on FCA’s decision on the tendering of the house managing services of properties owned by the VVO Group</td>
<td>44/690/1999</td>
<td>25 August</td>
</tr>
<tr>
<td>Name of the Party</td>
<td>Appeal on FCA's decision on the cooperation/agreement/price/restraint/exemption</td>
<td>Date</td>
<td></td>
</tr>
<tr>
<td>---------------------------------------------------------------------------------</td>
<td>----------------------------------------------------------------------------------</td>
<td>--------------------</td>
<td></td>
</tr>
<tr>
<td>Inkeri Kostiainen (963/61/1999)</td>
<td>Appeal on FCA's decision on the cooperation agreement between the municipality of Tuusula and Asuntosäätiö</td>
<td>86/690/1999 12 October</td>
<td></td>
</tr>
<tr>
<td>Suomen Bensiinikauppiatentti Liitto SBL ry (396/61/1999)</td>
<td>Appeal on FCA's decision on the purchasing price of Futura petrol and Futura Citydiesel</td>
<td>107/690/1999 November</td>
<td></td>
</tr>
<tr>
<td>Metsäliitto Osuuskunta Stora Enso Oyj UPM-Kymmene Oyj (196/61/1999)</td>
<td>FCA's proposal to detect a competition restraint violating the prohibitions of Article 6 of the Competition Act and the imposing of an infringement fine</td>
<td>46/690/2000 23 November</td>
<td></td>
</tr>
</tbody>
</table>
Supreme Administrative Court’s decisions within the field of the FCA in 2000

<table>
<thead>
<tr>
<th>Case Description</th>
<th>Appeal Details</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kuhmon Taksi palvelu Oy Kuhmon kaupunki (717/6/1/1994)</td>
<td>Appeal by the FCA on the Competition Council decision of 3 May 1998; file copy 144</td>
<td>27 January</td>
</tr>
<tr>
<td>Pohjan Taimi Oy (537/6/1/1998)</td>
<td>Appeal on the publicity of official documents 2358/1/2000; file copy 2666.</td>
<td>24 October</td>
</tr>
<tr>
<td>Salmi Oy (126/6/1/1992)</td>
<td>Appeal on the Competition Council decision of 17 December 1998; alleged abuse of dominant position by Megavoima Oy in the pricing of electric tariffs</td>
<td>10 November</td>
</tr>
</tbody>
</table>
FCA, Contact information 1 April 2001

Address: Pikkäsuonantaka 3 A, P.O.B. 332, FIN-00531 Helsinki
Telephone +358 9 731 41
Telefax +358 9 7314 3328
Inquiries: tiedotus@kilpailuvirasto.fi
Homepage: www.kilpailuvirasto.fi/english/index.html
Personal e-mail addresses are of the type firstname.surname@kilpailuvirasto.fi (no umlaut)

Markets 1
Juusela Johanna, Assistant Director, Head of Unit +358 9 7314 3334
Juuti Arttu, Research Officer +358 9 7314 3612
Leinonen Liisa, Senior Research Officer +358 9 7314 3334
Mattila Timo, Senior Research Officer +358 9 7314 3333
Mäkijärvi Armi, Secretary +358 9 7314 3386
Pirttilä Mikko, Research Officer +358 9 7314 3328
Sinunen Joni, Senior Research Officer +358 9 7314 3328

Markets 2
Ryhämä Matti, Assistant Director, Head of Unit +358 9 7314 3330
Helkama Kaarlo, Senior Research Officer +358 9 7314 3348
Huuho Tuomas, Head of Research +358 9 7314 3344
Kukkonen Pauko, Inspector +358 9 7314 3338
Lipponen Juha, Senior Research Officer +358 9 7314 3352
Loikkanen Sinikka, Senior Research Officer +358 9 7314 3359
Mutanen Anu, Senior Research Officer +358 9 7314 3341
Nokela Antti, Research Officer +358 9 7314 3345
Nybondas Jan, Senior Research Officer +358 9 7314 3354
Pohjonen Hannu, Senior Research Officer +358 9 7314 3343
Seppälä Timo, Research Officer +358 9 7314 3354
Tuomola Pirjo, Inspector +358 9 7314 3352
Tupamäki Markku, Senior Research Officer +358 9 7314 3320
Vuorio Liisa, Senior Research Officer +358 9 7314 3358

Markets 3
Virtanen Martti, Assistant Director, Head of Unit +358 9 7314 3338
Johansson Topi, Senior Adviser +358 9 7314 3380
Koski Anni, Secretary +358 9 7314 3383
Pennanen Juhani, Head of Research +358 9 7314 3361
Pääkkönen Jussi, Research Officer +358 9 7314 3391

International Affairs
Lindberg Rainer, Assistant Director, Head of Unit +358 9 7314 3331
Aalto Maija, Inspector +358 9 7314 3382
Eerola Leena, Senior Research Officer +358 9 7314 3361
Haapajärvi Virve, Research Officer +358 9 7314 3367
Tenhunen Launi, Senior Research Officer +358 9 7314 3356

Communications and Personnel Development
Kari Piivi, Chief Communications Officer, Head of Unit +358 9 7314 3390
Aho Jaana, Translator & Personnel Development Coordinator +358 9 7314 3333
Antila Anne, Secretary +358 9 7314 3302
Järvenpää Kalle, Communications Assistant +358 9 7314 3333
Salin Marketta, Communications Officer +358 9 7314 3333

Administration
Kyttälä Marja-Terttu, Head of Administration, Head of Unit +358 9 7314 3379
Berglund Peter, Systems Analyst +358 9 7314 3301
Fager Kari, Caretaker +358 9 7314 3349
Kaukonen Antti, Caretaker +358 9 7314 3349
Kopra Virve, Secretary +358 9 7314 3377
Laasanen Rita, Secretary +358 9 7314 3378
Perhoniemi Terttu, Senior Research Officer +358 9 7314 3340
Salojuuri Marja-Leena, Senior Research Officer +358 9 7314 3342
Siitio Arja, Senior Systems Analyst +358 9 7314 3373
Sukulopolvi Taina, Secretary +358 9 7314 3375