



Monitoring Norwegian food markets

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Konkurransetilsynet
Norwegian Competition Authority

Outline

- Surveillance scheme in the dairy sector
 - The dairy markets
 - The concern: Anti-competitive margin squeeze
 - The surveillance scheme
 - Results
- Monitoring the grocery sector
 - The grocery markets
 - The concern: Anti-competitive vertical agreements
 - The notification scheme
 - Experience

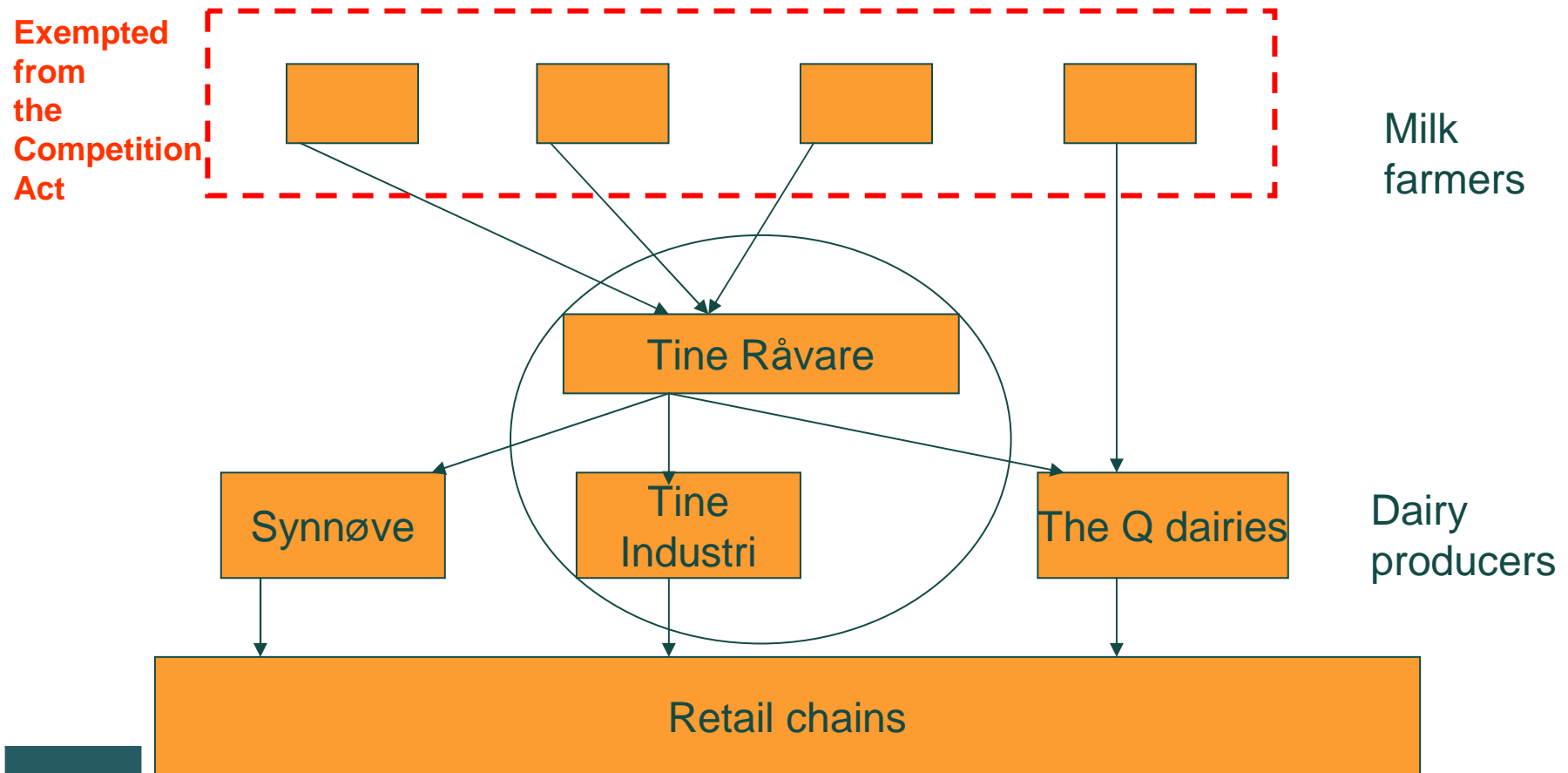


The NCA's market monitoring

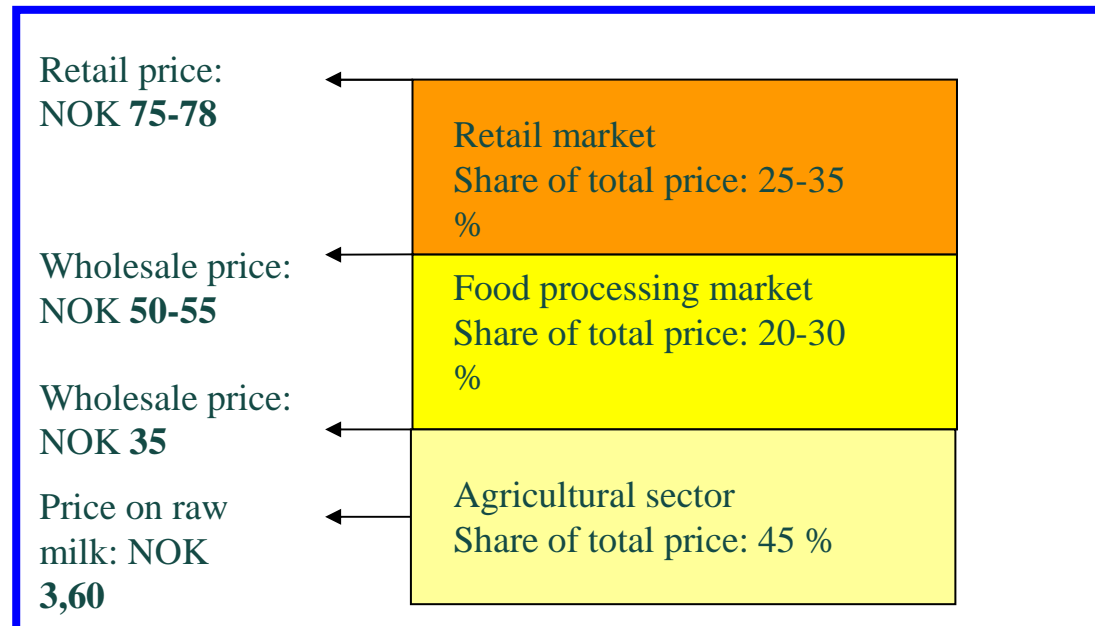
- The Norwegian Competition Authority's (NCA) main task is to enforce competition law
- The purpose of the Norwegian Competition Act is
 - to further competition, and thereby
 - contribute to the efficient utilisation of society's resources
- The Competition Act is partly harmonized with EU competition rules, and includes
 - prohibitions against agreements that restrict competition, and abuse of dominance
 - a pre-merger notification system
- The market monitoring is part of the NCA's competition act enforcement
- The purpose is to further competition



The value chain of dairy products



Components of the retail price of white cheese in Norway



→ A significant part of the price formation is explained by the processing and retail markets



The dairy markets - characteristics

- Regulated markets
 - High import tariffs on dairy products
 - Price differentiation scheme
 - Duty to supply competitors with raw milk
 -
- Concentrated markets
 - Tine is nearly the unique supplier of milk to the food processing industry
 - Tine is dominant on most markets where the processed products are sold
 - The dairy market is characterized by high barriers to entry



The concern: Margin squeeze

- The market structure creates conditions conducive to abuse of a dominant position (a violation of the Competition Act, article 11)
- One particular concern: Anti-competitive margin squeeze (foreclosure)
 - Dominant firm
 - Vertically integrated
- 2000-2007: Scheme for ex-post control of purchase prices for raw milk on the dairy products markets
 - The scheme functioned as a safety mechanism to limit competition restricting margin squeeze
 - 2007: Ex post control of prices phased out



The surveillance scheme - purpose

- 2008: NCA established a gross margin surveillance scheme for the dairy sector

Purpose:

- Ensure that the dominant firm is acting in accordance to article 11 in the Competition Act
 - The NCA calculates Tine's gross margins
 - Deterrence effect on the dominant firm
 - Helps the NCA to disclose infringements
- Prepare the NCA to deal with complaints from competitors
 - Ex post control of prices phased out
 - The surveillance creates a sound basis for assessing any complaints about Tine's pricing conduct



The test and evaluation

- Make use of an “as efficient test” : $P - t < C$
 - Collect data from Tine on 46 different products:
 - Prices (structure of rebates)
 - Costs (estimation of capital costs)
 - Tine has a duty to provide the NCA with information (art. 24)
 - Choose high-volume products that are close substitutes to products sold by other firms
 - Group single products into narrowly defined “product markets”, e.g. the market for white “mature” cheese
 - Evaluate the market
- ⇒ If Tine fails the test we look for other reasons than margin squeeze (e.g. low prices due to temporary sales campaigns)

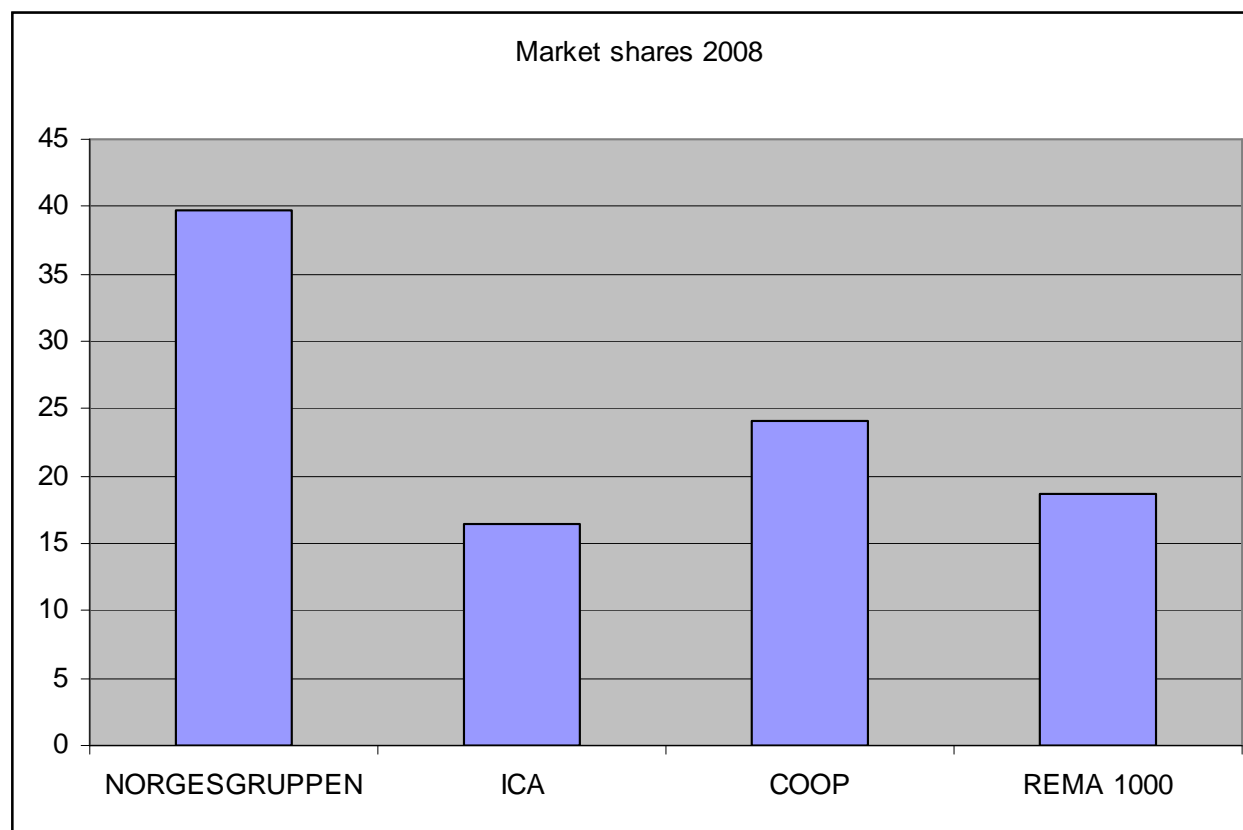


Evaluation and results

- Evaluation of gross margins at a bi-annual basis
- First half-year of 2008: 14 single products failed the test
- When grouping these products into "relevant markets"
=> no anti-competitive margin squeeze in any market
- The surveillance scheme is not a per se rule prohibiting sales below cost!



The retail grocery market



HHI: 27.8

CR4: 98.9

CR1: 39.8



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Market characteristics

- Increasing concentration at the retail level
 - Norgesgruppen is growing
 - Ica is losing market shares
- Concentrated supply markets
 - One large firm, one smaller competitor: Cheese, milk, poultry, frozen vegetables
 - Other market structures, $CR1 > 50$: Fruit, vegetables, meat, beer, water
- Barriers to entry
 - No independent full assortment wholesalers
 - High import tariffs on important food products
 - Planning law
- National price setting (maximum prices)



The concern: Anti-competitive vertical agreements

- Horizontal agreements always a concern
- Concentrated markets upstream and downstream – vertical agreements may have anti-competitive effects
- Investigation 2005: Is the use of slotting allowances detrimental to competition?
 - The NCA launched a report on the effect of slotting allowances, rebates and other vertical restrictions
 - Vertical restrictions may weaken competition and exclude smaller-sized suppliers from the market – but they may also lead to efficiencies
 - Case-by-case approach to rebates, slotting allowances, two part tariffs etc.



The notification scheme

- The NCA has imposed a duty upon retail chains to notify their annual agreements with large suppliers
 - The chains have a duty to provide the NCA with this information (art. 24)
- The authority has yearly meetings with retailers and suppliers, discussing the market conditions and agreements
- Purpose: Identify attempts to exclude suppliers, or other anti-competitive agreements
- Status 2009: Four retail chains submit their annual agreements with 21 suppliers



Use of the material

- The first year: The NCA examined carefully each and all of the agreements received
- The following years: The NCA examines a selection of agreements
- Extended market investigations:
 - For the 2007-agreements, the NCA conducted further investigation into one chosen product category (milk markets)
 - Including notification of agreements between retail chains and smaller suppliers of dairy products
 - For the 2008/09-agreements, the NCA has decided to conduct further investigation into at least one specific product category



Summary

- The surveillance scheme in the dairy sector:
 - The surveillance scheme is an important tool in the enforcement of the Competition Act in the dairy markets at the industry level
 - The surveillance is a strategy to prevent anti competitive behaviour by a dominant firm – not a regulation of prices or margins
- The monitoring of the grocery sector:
 - The notification of agreements is an important tool in the enforcement of the Competition Act in the grocery markets
 - The monitoring is a strategy to prevent anti competitive behaviour by suppliers or retailers or both

