



Continued duty of disclosure for a number of players



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In Norway, mergers, acquisitions and agreements that give a controlling influence in other companies (often referred to as mergers and acquisitions) above a certain turnover threshold must be reported to the Norwegian Competition Authority (NCA). The NCA also has the authority to order notification below these thresholds, including minority acquisitions (where no controlling influence is achieved), which is a frequently used tool in the NCA's merger control.

The ordinary notification obligation applies where the companies have a combined annual turnover of NOK 1 billion in Norway and more than two companies have an annual turnover of more than NOK 100 million. Pursuant to section 24 of the Norwegian Competition Act, the NCA may impose a duty of disclosure beyond these thresholds for certain players in certain markets if the NCA is concerned about the competitive situation in the market. This is used in the grocery industry, the fuel market and in relation to operators selling electric power, to name a few.

The purpose of the duty of disclosure is to make the NCA aware of all acquisitions and other concentrations in markets where the players are already concentrated. By receiving information about more acquisitions or transactions than the NCA would otherwise have been aware of, the NCA has a greater opportunity to investigate the effects of such mergers by requiring the submission of a competition statement and, if necessary, intervening in the merger as part of the ordinary merger control. Operators are obliged to notify the

NCA of all acquisitions, mergers and other business combinations, including minority acquisitions, until the end of 2024.

The NCA has recently announced that as of January 1, 2024, they will continue the duty of disclosure for a number of players in the markets for power, fuel, waste, newspaper, laundry and garden center, concrete, alarm, electric car charging, sports equipment, accounting services and online marketplaces. In addition, the grocery retailers Norgesgruppen ASA, Coop Norge SA, Rema 1000 and Bunnpris IK Lykke AS still have a duty of disclosure until 31.3.2024. The full list can be found [here](#). At this time, no new actors have been added to the list of actors subject to the duty of disclosure.

Violation of the duty of disclosure may result in a fine of up to 1% of the company's turnover. The NCA is no stranger to imposing fines for breach of the duty of disclosure, and has on two occasions in the last three years imposed fines of NOK 20 million and NOK 15 million on [NorgesGruppen](#) and [St1 Norge](#) respectively for breach of the duty.

In comparison, the competition authorities in our neighboring countries, Sweden and Denmark, do not have a similar possibility to impose a general duty to disclose all mergers and acquisitions within specific markets. Recently, however, there have been proposals to expand the competition authorities' ability to impose notification obligations in these countries as well. The Swedish Competition Authority in Sweden - like Norway - already has the right to impose notification also for transactions below the threshold for mandatory notification in Sweden. This practice is in line with the European Commission's practice under Article 22 of the EU Merger Regulation (EUMR), where individual undertakings may be subject to a notification obligation in connection with a transaction even if they do not meet the thresholds.