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Main Developments in Competition Law and Policy 2024 – Iceland

Peter Dalmay (Jonsson & Hall Law Firm) · Friday, January 10th, 2025

The year of 2024 was an eventful year for the Icelandic Competition Authority (“ICA”), as well as for Icelandic courts, regarding both competition enforcement and merger control. The EFTA Surveillance Authority (“ESA”) also decided to carry out its first ever unannounced antitrust inspection in Iceland.

Following is a brief overview of the most important developments in Iceland in 2024. It is worth noting that Iceland is a member of the EEA Agreement and Icelandic competition law therefore mainly mirrors EU competition law.

Cartels (sections 10 and 12 of the Icelandic Competition Act / Article 53 EEA)

Competition Appeals Committee suspends fine imposed on Samskip

In August 2023, the ICA found that Samskip, an undertaking active on the transportation market, had unlawfully colluded with its main competitor, Eimskip, thereby violating both Article 10 of the Icelandic Competition Act and Article 53(1) of the EEA Agreement. The ICA imposed a record breaking fine of 4.2 billion ISK on Samskip as well as structural measures. Samskip appealed the decision to the Competition Appeals Committee where a final ruling is still pending. However, in January 2024, the Appeals Committee decided to *suspend* in part the legal effects of the decision by the ICA, i.e. the payment of the fine imposed.

Hreyfill and ICA reach a settlement

The ICA reached a *settlement* with Hreyfill, an undertaking active in the taxi sector, following a provisional decision in which Hreyfill was found to have probably violated both Articles 10, 11 and 12 of the Icelandic Competition Act. The ICA had considered it likely that Hreyfill constituted an association of undertakings within the meaning of Article 12 and found that by prohibiting taxi drivers driving under its auspices to use the services of other taxi undertakings Hreyfill had probably violated Article 10 on unlawful collusion. Moreover, the ICA presumed that Hreyfill was in a dominant position in the market for taxi stations and its behavior was deemed to have likely abused that position.

In August, the parties reached a settlement whereby Hreyfill promised not to prevent taxi drivers driving under its auspices to use the services of other taxi undertakings, as well as to make necessary changes to its bylaws and station rules to ensure compliance.

Court of Appeals annuls a ruling by the district court concerning Samskip

In September, the Court of Appeals **annulled** a ruling by the District Court of Reykjavik which had previously found that Samskip had a legitimate interest to bring an appeal before the Competition Appeals Committee regarding the annulment of a certain provision in a settlement made between its main competitor, Eimskip, and the ICA. Eimskip had admitted an unlawful collusion with Samskip and agreed to pay an administrative fine of 1.5 billion ISK. Eimskip had also accepted specific measures to promote competition. This included, among other things, to cease all business cooperation with Samskip as well as any other undertaking in any kind of transport service if Samskip also cooperated with the relevant undertaking.

The Court of Appeals disagreed with the finding of the district court and ruled that Samskip did not have a legitimate interest in receiving a substantive ruling by the Competition Appeals Committee about the legitimacy of this specific measure in the settlement. The Supreme Court of Iceland has **agreed** to hear the case. The case will likely be pleaded in the first half of 2025.

Unannounced inspection by ESA

In October, ESA carried out an unannounced **inspection** concerning the retail pharmacy market in Iceland. This was the first time that ESA has carried out such an inspection in Iceland.

Abuse of dominance (section 11 of the Icelandic Competition Act / Article 54 EEA)

Court of Appeals confirms annulment

The Court of Appeals confirmed an **annulment** of a ruling by the Competition Appeals Committee in February. The Appeals Committee had confirmed a decision by the ICA where the authority found that Síminn, the largest retailer of telecom services in Iceland, had violated the conditions of a settlement between the undertaking and the ICA from 2015, and was ordered to pay a fine in the amount of 200 million ISK. The theory of harm was that Síminn had unlawfully bundled together electronic communications services and linear television services, namely the broadcasting of English Premier League football, in one package.

Both the ICA and the Appeals Committee had found that Síminn's pricing of the television service in question, as part of the package, had been anti-competitive and not in accordance with the settlement as it, *inter alia*, limited its competitors' abilities to attract consumers. The Court of Appeals found that the ICA had not proved to the requisite legal standard that Síminn had breached the settlement in question and rejected the theory of harm put forward by the authority.

The Supreme Court of Iceland has **agreed** to hear the case. The case will be pleaded in January

2025.

Further court rulings regarding the settlement between Síminn and the ICA

In a separate case, Síminn sought an annulment of the settlement previously mentioned between the undertaking and the ICA following a rejection by the authority to abolish the conditions stated in the settlement. Síminn had required the abolishment following the sale of its subsidiary, Míla, Iceland's largest telecommunications infrastructure company which owns a comprehensive network of fixed broadband, mobile access and backhaul covering the entire country. The District Court of Reykjavik **annulled** the ICA's decision and found that the authority had not laid out a sufficiently solid basis for its decision to refuse Síminn's demand. The judgment has been appealed to the Court of Appeals and will likely be heard in the latter part of 2025.

In a third ruling concerning the settlement in question, the District Court of Reykjavik **dismissed** a case brought by Síminn where it claimed that it was not bound by the settlement's conditions.

Merger control

Court of Appeals confirms blocked merger

The Court of Appeals **upheld** a ruling by the Competition Appeals Committee confirming a decision by the ICA to block a three-to-two merger in the market for medical imaging services, which include CT scans, x-rays, MRIs, and ultrasounds. The court confirmed that the ICA enjoyed a certain amount of latitude in its assessment of whether a proposed merger is intended to reduce competition in the market. The court found that there was limited substitution between medical imaging services inside and outside hospitals. Moreover, it concluded that the entry of a new significant competitor into the market was unlikely.

ICA blocks a merger in the market for fertilizer

In June, the ICA **blocked** the acquisition of Búvís, an undertaking specializing in the sale of supplies and equipment to farmers including fertilizer, by Skeljungur, an undertaking active in various markets including the sale of fertilizer. The investigation revealed that Búvís was an important competitor in the market for the import and sale of fertilizer. The acquisition was found to have significant adverse effects on the market, which was already highly concentrated. It was concluded that the reduction in the number of competitors was likely to have detrimental effects for consumers, including farmers, as the conditions would have become even more suitable for price coordination.

Acquisition of Lyfja by Festi approved

The ICA **approved** the acquisition of Lyfja, a pharmacy operator, by Festi, an investment company

that owns various businesses, including supermarkets and fuel services. Lyfja also owns a subsidiary, Heilsa ehf., which operates in the wholesale sector for health-related products. The ICA considered that the proposed merger would have positive effects for competition in the market for convenience goods considering the proposed conditions by the parties. The merging parties had proposed full operational separation between Heilsa ehf. and Festi for the next five years. Furthermore, the parties also promised to abolish non-compete clauses in employment contracts of all its pharmacists.

Festi settles and agrees to pay a fine

The ICA reached a **settlement** with Festi in November, with the investment company admitting to having violated a previous settlement with the ICA. In the previous settlement, Festi had committed to various conditions following a merger in the markets for groceries and fuel. Festi admitted to having violated certain conditions that were intended to protect and promote competition in those markets, including the undertaking's obligation to review its cooperation with one of its competitors and its obligation to provide an independent expert with necessary information and assistance. Festi also admitted a violation of its duty to provide the ICA with necessary information in connection with the ICA's investigation into the merger. Festi agreed to pay a fine of 750 million ISK.

Market inquiries and opinions

In April, the ICA published an **opinion** regarding the market for blood collection from pregnant mares for the production of the Pregnant Mare Serum Gonadotropin hormone. The opinion, which was directed both towards Ísteka, the dominant undertaking on the market, and the Icelandic State, draws attention to several competitive issues on the market and contains measures that, in the opinion of ICA, could promote better compliance with competition law.

The ICA published an **opinion** in May on the payment participation of the Iceland Health Insurance in medical imaging services outside hospitals. The opinion provides certain measures for the Ministry of Health and the Iceland Health Insurance to promote and increase competition on the market, e.g., by facilitating market entry with monetary contributions on equal grounds.

In November, the ICA also published a **market study** regarding the market for the rental of commercial property.

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