



SAMKEPPNISEFTIRLITIÐ

27 September 2013

## **„The future aint what it used to be“ Challenges ahead in competition enforcement**

**Speech given by Páll Gunnar Pálsson, Director General of the Icelandic Competition Authority, at a conference held by the Ministry of Industries and Innovation, the Icelandic Competition Authority and the Icelandic Competition Appeals Committee.**

*Minister of Industry and Commerce, Secretary-General of the OECD, other participants of the conference, ladies and gentlemen,*

Please let me begin by thanking all of you, on behalf of the Icelandic Competition Authority, for participating in this conference. From the point of view of the Competition Authority, there is urgent need, at this point in time, to have an in depth discussion on the competition policy in Iceland. Later on I will tell you why this is my belief. It is our hope that this conference is merely a beginning of such a discussion, beginning of the future.

In that discussion we must learn from past, the experience from the 20 years of competition enforcement in Iceland and the experience gained by others in the world around us. But the focus must always be on the future.

With all this in mind, we decided to use an expression often credited to Yogi Berra, the famous American baseball player, as a title of the conference. "*The future aint what it used to be*"; times have changed, and we need to know where we are going. Competition policy is one of the milestones we need to have in place to guide us. Actually we can quote Yogi Berra again, because he once said: "If you don't know where you're going you might not get there."

Since the economic crisis in Iceland, and the collapse of the Icelandic banks in October 2008, the Competition Authority has placed special emphasis on using the competition law as a tool to speed up economic recovery. In broad terms our work has been twofold:

First, to prevent (or minimize) the reduction of competition and ensure through firm enforcement that no actions are taken that unnecessarily restrict competition, and thereby damage consumers and permanently lower living standards.

And second, to provide information on the changes and challenges in the competitive environment in markets. Through that we have advocated for ways to



enhance competition and speed up economic recovery. And with that in mind we are, today, releasing a new report, where we are attempting to assess the economic environment in significant markets, and thereby shedding light on the challenges we are facing in terms of resurrection of businesses and the competitive environment in Iceland.

The title of the report, "*Are we entering a lost decade*" shows that we have serious concerns as regards the future, but with focused actions there is hope for improvement. The report takes stock of 120 companies which are important competitors in some 14 significant markets. This is the third time since 2011 that we report on the restructuring of those companies.

When looking at the findings of the report we have to recognise and remember that the banking collapse and the devaluation of the Icelandic Krona left us in near hopeless situation. The shock in terms of falls in equity ratios and increase in debts was unprecedented. The numbers also show that it takes a long time to recover, be it in terms of GDP, fixed investments or turnovers of significant markets.

We also have to recognise that we have come a long way. The first round of restructuring of bigger companies is now mostly over and their debts have been decreased considerably. More than 70 of the 120 companies needed financial restructuring, and of those more than 60 have gone through that process.

The bad news is that more than 40% of the restructured companies are still in a bad shape, with negative equity value for shareholders. The research also shows that return of capital in the Icelandic economy is in general very low. More than one third of the companies in question has a lower rate of return than the discount rate of the Central Bank. Further decrease of the equity of these companies is therefore highly likely.

This is of course not the case for all companies. If we look at different sectors with different sources of income, we recognise that the sectors connected to natural resources such as fisheries, flourish. It is first and foremost the domestic service sector that suffers in terms of financial situation and profitability.

The report also covers the ownership structure of the 120 companies. There we identify that formal ownership of resolution committees and banks is in retreat. But still there are considerable concerns regarding the banks' direct and indirect ownership in companies. There we have maintained that the indebtedness of the domestic service sector grants the banks considerable indirect ownership power.

It is also clear from the research that pension funds are rapidly increasing their share of ownership of Icelandic companies. This is happening through direct investment, investment funds jointly owned by pension funds and special investment vehicles set up by the banks. The lack of clarity in ownership



structures that derive from those complex vehicles is a special source of concern. We are increasingly faced with ownership where the control of the relevant company is both unclear and weak. Ownership of that sort is not pruned to foster active competitors.

*Distinguished participants,*

It is clear that comparison between the ongoing Icelandic crisis and the Japanese crisis in the beginning of the nineties is a complex one. Nevertheless we can identify striking similarities when it comes to effects on competition. Low productivity in the domestic service sector, the high indebtedness despite financial restructuring, unclear ownership structures and lack of investment opportunities, are symptoms that we have in common with the so called "lost decade" in Japan. These symptoms and other conclusions of the report will be discussed in more detail this afternoon, in workshop 4.

In our view we have two paths ahead of us to choose from: On the one hand we have the path of protectionism where barriers to entry are reinforced, supply and prices are administered through public steering and collusion and abuse of dominant positions are facilitated. All with the noble aim to protect Icelandic companies and maintain levels of employment.

On the other hand we have the path of open markets and robust competition, with strong competition enforcement, lower barriers to entry, more competitors entering, more diversity, larger markets, better prices and more productivity.

The path of protectionism is often easier and more accessible in the short term. It can sneak up on you through little things like legislation on opening hours or price controls or budget cuts in competition enforcement. And before we know it, we will reach the point of no return.

If we think this over there is no doubt that the path of open markets and robust competition is simply the only solution if we want to make Iceland a good place to live in, in the long term. But we will not be able to follow that path without considerable effort in the short term.

There are a few important issues that we have to consider in this respect, issues that we will discuss more carefully in the afternoon.

First, we have to rethink the way in which the legislator, government and different authorities address competition issues. In the afternoon, in workshop 1, we will learn how competition assessments of laws and regulations, deriving from the OECD-competition assessment Toolkit, can help to increase productivity in the public as well as the private sector. And we will learn how Swedish authorities have, with good results, used competition as a tool to improve the public sector, not least in health and education. Here, Iceland lags far behind and there is



urgent need for improvement from government, municipalities and other public authorities.

Secondly, we have to consider the deterrence effect of competition enforcement, in order to make it as robust as possible. In workshop 2, we will discuss what has to be done to secure satisfactory deterrence effect and the legal boundaries in that respect. Entering this discussion, I can say that the level of recurrent breaches by companies in Iceland is a source of special concern on behalf of the Icelandic Competition Authority. In my view, levels of fines have to be reajusted through legal practice, to fit the proper deterrence effect of our times.

Lastly, we have to be daring when it comes to changing markets that do not work well enough. In workshop 3 we will discuss the case of the telecommunications market, where a recent settlement between Skipti, the incumbent, and the Competition Authority, is intended to reduce barriers to entry in a network market where reasonable economies of scale have also to be secured. The case of telecommunications is taken as an example, but the Competition Authority is also looking closely at other markets such as fuel, food, finance and transport.

*Ladies and gentlemen,*

The Icelandic Competition Authority intends to play a part in enhancing productivity in the domestic service sector in the coming years, through firm competition enforcement and advocacy. The discussions here today are important in that respect and can as such help to formulate the policymaking of the Authority and others.

I´m looking forward to participate and follow the forthcoming discussions and I´m sure that we will have a successful and meaningful day together. And when we go home I hope that we will not quote Yogi Berra again, as he once said: "I really didn´t say everything I said".

Let us mean what we say, and then bring words into action.

Thank you.