DOMINANCE

Norway

LEXOLOGY
Getting The Deal Through

Consulting editor
Cleary Gottlieb Steen & Hamilton LLP

Dominance

Consulting editors

Patrick Bock, Henry Mostyn, Patrick Todd

Cleary Gottlieb Steen & Hamilton LLP

Quick reference guide enabling side-by-side comparison of local insights, including into the general legal framework and sector-specific rules, the definition of collective dominance, and relevance of dominant purchasers; abuse of dominance and related defences; specific forms of abuse, enforcement, sanctions, remedies and appeals; and current trends.

Generated 23 March 2023

Table of contents

Contributors

Norway

Eivind J Vesterkjær
eve@thommessen.no
Advokatfirmaet Thommessen AS

Siri Teigum
ste@thommessen.no
Advokatfirmaet Thommessen AS

Heidi Jorkjend
hjo@thommessen.no
Advokatfirmaet Thommessen AS

GENERAL FRAMEWORK

Legal framework

What is the legal framework in your jurisdiction covering the behaviour of dominant firms?

Pursuant to national competition law, the behaviour of dominant firms is governed by section 11 of the Competition Act of 5 March 2004 No. 12 (CA), which prohibits 'any abuse by one or more undertakings of a dominant position', no prior decision to that effect being required. Section 11 of the CA mirrors article 102 of the Treaty on the Functioning of the European Union (TFEU) and article 54 of the Agreement on the European Economic Area (EEA). It follows from Norwegian case law that the case law of the European Court of Justice, the General Court, the European Commission, the EFTA Court and the EFTA Surveillance Authority (ESA) related to these provisions is relevant when enforcing section 11 of the CA. If the conduct in question affects trade between the EEA or EFTA states or several European Union (EU) states, article 54 of the EEA and article 102 of the TFEU apply in parallel with section 11 of the CA.

Law stated - 11 January 2023

Definition of dominance

How is dominance defined in the legislation and case law? What elements are taken into account when assessing dominance?

Section 11 of the CA is phrased in the same way as article 102 of the TFEU. Thus, there is no direct definition of dominance in the CA. According to case law under article 102, the decisive factor is the power of an undertaking to behave to an appreciable extent independently of consumers and competitors, see Case 27/76 (United Brands) and subsequent EU case law. The Norwegian Supreme Court held in Tine (Rt-2011-910) premise 64 that for the application of section 11 of the CA, the assessment of whether the undertaking holds a dominant position must be made in light of the EU and EEA law. The elements to be taken into account when assessing dominance would therefore mirror the elements included in an assessment under article 102 of the TFEU and article 54 of the EEA.

Law stated - 11 January 2023

Purpose of the legislation

Is the purpose of the legislation and the underlying dominance standard strictly economic, or does it protect other interests?

The object of the CA is primarily economic and related to overall efficiency and consumer welfare. The CA does, however, contain one provision enshrining other public interests. In order to enhance competition in certain markets, the government (King in Council) may enact a regulation to intervene against terms and conditions, agreements or practices that restrict or are liable to restrict competition contrary to the general purpose of the CA, cf. section 14 of the CA. The only regulation in force based on this provision is the Norwegian Regulation on access to online housing advertising of 9 September 2009, which imposes online housing advertising companies to grant access to their advertising services on non-discriminatory terms.

Law stated - 11 January 2023

Sector-specific dominance rules

Are there sector-specific dominance rules, distinct from the generally applicable dominance provisions?

The CA is of general application and applies in parallel to sector-specific legislation. In relation to electronic communications (including, inter alia, telecoms), special legislation applies through the Electronic Communication Act of 4 July 2003 No. 83. This Act implements the EU directives related to electronic communication. Chapter 3 of the Electronic Communication Act contains provisions governing firms holding 'significant market power'. The definition of significant market power is akin to the definition of dominance (compare section 3-1) and a firm holding such a position is subject to one or more of the special obligations set out in Chapter 4 of the Act. These obligations are, in general, concerned with access to facilities and non-discrimination. Further, the relevant authority can, under special circumstances, issue orders beyond the obligations contained in Chapter 4.

Other sector-specific legislation contains provisions that, although of a general application, are relevant primarily for dominant firms. In particular, this is true for the Energy Act of 29 June 1990 No. 50 and the Postal Act of 29 November 1996 No. 73.

Law stated - 11 January 2023

Exemptions from the dominance rules

To whom do the dominance rules apply? Are any entities exempt?

Section 11 of the CA applies to 'undertakings'. This concept has the same meaning as under article 102 of the TFEU and article 54 of the EEA. Thus, every entity engaged in economic activity regardless of the legal status of the entity must comply with the provision. Section 11 of the CA also applies to public entities to the extent that they engage in economic activities, namely, that are 'undertakings'. There are no legal exemptions from the general prohibition in section 11. However, the concept of objective justification is applied in the same manner as within the EU and EEA law.

Law stated - 11 January 2023

Transition from non-dominant to dominant

Does the legislation only provide for the behaviour of firms that are already dominant?

In the same manner as under article 102 of the TFEU and article 54 of the EEA, abuse is a separate condition for applicability of section 11 of the CA, so neither dominance nor the creation of dominance is prohibited per se. The creation of a dominant position may, however, fall under the merger control rules of the CA. Moreover, arrangements that create dominance may, depending on the circumstances of the specific case, be prohibited by section 10 of the CA on anticompetitive agreements and practices (mirroring article 101 of the TFEU and article 53 of the EEA).

Law stated - 11 January 2023

Collective dominance

Is collective dominance covered by the legislation? How is it defined in the legislation and case law?

Section 11 of the CA applies to collective dominance. Neither the CA nor Norwegian case law provides a definition of collective dominance. The preparatory works of the CA explain that the requirements of collective dominance have not

been fully clarified through EU case law. There are no cases under section 11 in which collective dominance has been found to exist, but the analysis would mirror that under article 102 of the TFEU and article 54 of the EEA.

Law stated - 11 January 2023

Dominant purchasers

Does the legislation apply to dominant purchasers? Are there any differences compared with the application of the law to dominant suppliers?

As with article 102 of the TFEU, section 11 of the CA applies to dominant purchasers. There are no cases from Norway concerning this, but it can be presumed that a certain degree of market power downstream is required before upstream abusive behaviour will be at risk of investigation.

Law stated - 11 January 2023

Market definition and share-based dominance thresholds

How are relevant product and geographic markets defined? Are there market-share thresholds at which a company will be presumed to be dominant or not dominant?

The relevant product and geographic markets are defined in the same manner as under article 102 of the TFEU and article 54 of the EEA. There is no specific market share threshold, and the question of dominance must be assessed on a case-by-case basis. However, a lasting 50 per cent market share is generally regarded as a presumption for dominance. EU guidance is relevant also in this relation and as set forth as a general point of departure in the European Commission's guidance paper on article 102 of the TFEU, dominance is not likely if the undertaking's market share is below 40 per cent in the relevant market.

Law stated - 11 January 2023

ABUSE OF DOMINANCE

Definition of abuse of dominance

How is abuse of dominance defined and identified? What conduct is subject to a per se prohibition?

Section 11 of the Competition Act of 5 March 2004 No. 12 (CA) is drafted in line with article 102 of the Treaty on the Functioning of the European Union (TFEU), namely, it includes a non-exhaustive list of possible abuses that are identical to the list of possible abuses under article 102 of the TFEU and article 54 of the Agreement on the European Economic Area (EEA). In the Tine case (Rt-2011-910), the Norwegian Supreme Court confirmed that the notion of abuse under section 11 of the CA mirrors that of article 102 of the TFEU and 54 of the EEA.

In the assessment of whether an activity constitutes abuse, the purpose of the CA, namely to ensure economic efficiency and consumer welfare, is of the utmost importance. Moreover, as under the EU and the EEA rules, it is clear that the concept of abuse is an objective one. There is no case law from Norway establishing a particular conduct as subject to a per se prohibition, but the interpretation of section 11 of the CA mirrors that of article 102 of the TFEU and article 54 of the EEA, and will follow relevant developments on this point.

Law stated - 11 January 2023

Exploitative and exclusionary practices

Does the concept of abuse cover both exploitative and exclusionary practices?

Yes.

Law stated - 11 January 2023

Link between dominance and abuse

What link must be shown between dominance and abuse? May conduct by a dominant company also be abusive if it occurs on an adjacent market to the dominated market?

In relation to this question, the case law related to the application of article 102 of the TFEU and article 54 of the EEA offers important guidance. Consequently, dominance, abuse and potential economic benefit do not necessarily need to occur in the same market. Furthermore, the EEA in its guidelines holds that there is not a requirement to demonstrate a link between dominance and abuse (eg, a dominant undertaking could abuse its position by entering into an exclusive purchasing agreement even though its dominant position in itself was irrelevant for closing that agreement).

Law stated - 11 January 2023

Defences

What defences may be raised to allegations of abuse of dominance? When exclusionary intent is shown, are defences an option?

It is possible to invoke efficiency gains. Moreover, although not expressed in section 11 of the CA (as article 102 of the TFEU), it is possible to defend an allegedly abusive practice on the basis that the conduct in question is necessary to protect legitimate interests (objective justification and proportionality). However, it appears that such defences cannot be relied upon if exclusionary object is shown, see the Norwegian Competition Authority's (NCA) decision V2007-2 (Tine v NCA) , pages 81 and 82.

Law stated - 11 January 2023

SPECIFIC FORMS OF ABUSE

Types of conduct

Rebate schemes

Rebate schemes could be considered as abuse of dominant position pursuant to section 11 of the Competition Act of 5 March 2004 No. 12 (CA); namely, such behaviour would be prohibited to the same extent as under article 102 of the Treaty on the Functioning of the European Union (TFEU) and article 54 of the European Economic Area (EEA). One of the few cases investigated under section 11 of the CA concerned a rebate scheme operated by a dominant bus company. The Norwegian Competition Authority (NCA) first condemned the scheme as abusive in decision V2004-29, but then quashed its own decision after the bus company appealed the decision (decision V2004-34). The NCA generally holds that incremental rebates that encourage consumer loyalty may be prohibited if competitors are driven, entirely or in part, out of the market and such rebates cannot be objectively justified by the dominant undertaking. Retroactive rebates are mentioned by the NCA as an example of such abuse.

Law stated - 11 January 2023

Tying and bundling

Tying and bundling could be considered as abuses pursuant to section 11 of the CA; namely, such behaviour would be prohibited to the same extent as under article 102 of the TFEU and article 54 of the EEA.

Law stated - 11 January 2023

Exclusive dealing

Exclusive dealing, etc., could be considered as an abuse pursuant to section 11 of the CA; namely, such behaviour would be prohibited to the same extent as under article 102 of the TFEU and article 54 of the EEA. In January of 2022 the NCA concluded an inquiry into the alleged abusive practices of the food delivery service platform Foodora with behavioural remedies (decision V2022-1). The NCA's theory of harm was that Foodoras practice of entering into exclusivity agreements with restaurants reduced the restaurants' opportunities and incentives to collaborate with other food delivery platforms, thus limiting the ability of other platforms to expand and access the market. Foodora has obliged to refrain from entering into exclusivity agreements for three years following the decision.

Law stated - 11 January 2023

Predatory pricing

Predatory pricing could be considered as an abuse pursuant to section 11 of the CA; namely, such behaviour would be prohibited to the same extent as under article 102 of the TFEU and article 54 of the EEA. One of the NCA's landmark cases under section 11 of the CA – the SAS case of 2005 – was a predatory pricing case related to certain domestic air travel routes in Norway where the NCA's decision was quashed by the courts. In the SAS case, the NCA applied the test from AKZO v Commission as a cost benchmark. There is no Norwegian case law that clarifies whether recoupment is a necessary element in the assessment of predatory pricing, but the NCA will follow the case law on the interpretation of article 102 of the TFEU and article 54 of the EEA. The possibilities of recoupment would presumably form part of the NCA's assessment of predatory pricing, although it appears unsettled on the basis of the SAS case whether this is a separate requirement.

Law stated - 11 January 2023

Price or margin squeezes

Price or margin squeezes could be considered as an abuse pursuant to section 11 of the CA; namely, such behaviour would be prohibited to the same extent as under article 102 of the TFEU and article 54 of the EEA. On 29 June 2020, the EFTA Surveillance Authority (ESA) fined Telenor ASA €112 million for margin squeeze of competitors in respect of the provision of retail mobile telephony services. According to ESA, the abuse was conducted by Telenor in relation to standalone mobile broadband to residential customers in the period from 2008 to 2012. The decision was upheld by the EFTA Court in May 2022.

Law stated - 11 January 2023

Refusals to deal and denied access to essential facilities

Refusal to deal could be considered as an abuse pursuant to section 11 of the CA; namely, such behaviour would be prohibited to the same extent as under article 102 of the TFEU and article 54 of the EEA. There are no cases from the NCA related to refusal to deal. However, the ESA has dealt with several cases related to exclusivity. In 2010, the company Posten Norge AS was fined approximately €13 million for exclusive arrangements excluding competitors in the domestic parcel delivery market. The decision was upheld in substance by the EFTA Court. In 2011, the ESA fined Color Line AS and Color Group AS approximately €19 million related to an abuse in the form of maintaining long-term exclusive rights to access the harbour in Strömstad, Sweden. In 2018, ESA issued a statement of objections against airline Widerøe's Flyveselskap AS concerning a possible refusal to supply potential competitors with receivers necessary to compete for public service obligation routes in Norway. The investigation was, however, closed in June 2020, concluding that the evidence so far collected was not sufficient for the NCA to prioritise any further investigation.

Law stated - 11 January 2023

Predatory product design or a failure to disclose new technology

Predatory product design or a failure to disclose new technology could be considered as abuses pursuant to section 11 of the CA; namely, such behaviour would be prohibited to the same extent as under article 102 of the TFEU and article 54 of the EEA. There are no cases regarding this from the NCA.

Law stated - 11 January 2023

Price discrimination

Price discrimination could be considered as an abuse pursuant to section 11 of the CA; namely, such behaviour would be prohibited to the same extent as under article 102 of the TFEU and article 54 of the EEA.

Law stated - 11 January 2023

Exploitative prices or terms of supply

Exploitative prices could be considered as an abuse pursuant to section 11 of the CA; namely, such behaviour would be prohibited to the same extent as under article 102 of the TFEU and article 54 of the EEA. Pursuant to section 2 of the Price Policy Act of 11 June 1993 No. 66, it is prohibited to receive, demand or agree upon prices that are unfair for the purchasing party. In practice, allegations of unfair pricing based on the Pricing Policy Act have rarely been successful in the courts. Contrary to section 11 of the CA, however, section 2 of the Pricing Policy Act does not require that an undertaking holds a dominant position.

Law stated - 11 January 2023

Abuse of administrative or government process

Abuse of government processes could be considered as an abuse pursuant to section 11 of the CA; namely, such behaviour would be prohibited to the same extent as under article 102 of the TFEU and article 54 of the EEA.

Law stated - 11 January 2023

Mergers and acquisitions as exclusionary practices

Mergers and acquisitions are covered by the CA's provisions on merger control. As of now, concentrations are generally not considered as an abuse pursuant to section 11 of the CA. In principle, such behaviour would be prohibited to the same extent as under article 102 of the TFEU and article 54 of the EEA. In the Advocate General's Opinion in Case C-449/21 (Towercast) it is proposed that a concentration which does not have community dimension, is below the national filing thresholds and has not been subject to a referral under article 22 of Council Regulation (EC) No 139/2004 (EUMR), may nonetheless be reviewed as an abuse of dominant position case pursuant to article 102 of the TFEU. This entails that mergers and acquisitions could be assessed as abuse under article 11 of the CA if the Advocate General's opinion is upheld by the European Court of Justice.

Law stated - 11 January 2023

Other abuses

Other types of abuse pursuant to section 11 of the CA would follow the abuse concept as enshrined in article 102 of the TFEU and article 54 of the EEA.

In 2018, the NCA fined Telenor ASA for abuse of dominance in the market of retail mobile services. In 2007, competing mobile company, Network Norway began the construction of a third mobile network in Norway and during the rollout of this network, it purchased access to Telenors' network in areas uncovered by its own network. The NCA found that Telenor abused its dominant position when amending the price clause in the network access agreement. The new price structure could potentially limit further investment incentives in the third network, hence creating barriers for the development of the third mobile network. The decision was appealed to the Competition Complaints Board, where the majority of the Board upheld the NCA's decision (decision 2019/34). The minority dissented, finding that the NCA had not proved that the incentives to invest in the third network were limited because of the new price clause specifically. Telenor appealed the Competition Complaint Board's decision to the Gulating Court of Appeal, which in June 2021 unanimously upheld the Competition Complaint Board's decision. The Norwegian Supreme Court declined to review Telenor's appeal in November 2021; therefore, the Gulating Court of Appeal's decision is final.

Law stated - 11 January 2023

ENFORCEMENT PROCEEDINGS

Enforcement authorities

Which authorities are responsible for enforcement of the dominance rules and what powers of investigation do they have?

Enforcement is carried out by the Norwegian competition authorities, which are the King (ie, the Council of Ministers), the Ministry of Trade, Industry and Fisheries, the Competition Complaints Board and the Norwegian Competition Authority (NCA). In practice, the NCA is the main enforcer in Norway. In addition, the EFTA Surveillance Authority (ESA) can enforce article 54 of the Agreement on the European Economic Area (EEA). In 2016, the Competition Act of 5 March 2004 No. 12 (CA) was amended by the introduction of the Competition Complaints Board, which started its functioning in April 2017. Somewhat simplified, the Complaints Board is the exclusive appeals body for all decisions by the NCA.

The powers of investigation conferred upon the NCA are set out in Chapter 6 of the CA. Pursuant to section 24, everybody is obliged to provide the NCA with the requested information in respect of a suspected breach of section 11

of the CA. Moreover, the NCA can, on the basis of section 25 of the CA, carry out on-the-spot surprise investigations to secure evidence on business premises or other places where relevant information may be found. Prior consent of the District Court is required to this effect. The Authority may require police assistance when it carries out such surprise investigation. The investigatory powers correspond roughly with those of the European Commission under Council Regulation (EC) No. 1/2003.

Under Norwegian law, communication with in-house counsel is protected by legal professional privilege to the same extent as communication with external legal counsel. In contrast, the fact-finding power of the ESA in relation to legal professional privilege mirrors that of the Commission.

Decisions by the NCA imposing a fine for abuse of dominant position may be appealed to the Competition Complaint Board, and subsequently before the Gulating Court of Appeal, which then may examine and consider all aspects of the case. A decision by the NCA may not be challenged in court before the option to appeal the case to the Competition Complaints Board has been exhausted. Nevertheless, national courts have the power to enforce section 11 of the CA in the context of private litigation.

Law stated - 11 January 2023

Sanctions and remedies

What sanctions and remedies may the authorities impose? May individuals be fined or sanctioned?

The basic remedy is to require the abusive practice to be brought to an end, see section 12 of the CA. In addition to behavioural remedies, this may involve structural remedies provided that there are no behavioural remedies equally effective or if such remedies would be more burdensome on the company. Structural remedies have not yet been imposed.

The NCA may also accept remedies proposed by the company under investigation and close the case upon a binding commitment of such remedies. The NCA may accept remedies before completing its analysis of whether an abuse has taken place.

According to section 29 of the CA, the NCA may in addition to require the abuse to be brought to an end, issue an administrative fine provided that the abusive practice was carried out with negligence or intent. The NCA imposed fines in the SAS and Tine cases; however, these decisions were annulled on appeal. In 2018, the NCA fined Telenor ASA 88 million kroner. The Competition Complaints Board later upheld this decision, and the Gulating Court of Appeal later upheld the Competition Complaints Board's decision. Thus, the imposed fine in the Telenor case is the first final fine imposed by the NCA in a section 11 case.

The principles for calculating fines for violations of the CA are in line with the principles for calculating fines under the EEA and EU competition rules. Accordingly, fines may amount to up to 10 per cent of the worldwide turnover of the undertaking. However, this is a maximum limit and the level of the fine will be determined on a case-by-case basis.

Infringement of section 11 of the CA does not trigger criminal sanctions. However, such sanctions are available in respect of anticompetitive agreements violating section 10 of the CA. Moreover, failure to comply with decisions by the NCA or the obligation to provide information to the NCA and the provision of incomplete or incorrect information can result in criminal sanctions being imposed.

The ESA has imposed fines in three major cases being the Posten Norge case (2010) (approximately €11 million), the Color Line case (2013) (approximately €19 million) and the Telenor case (2020) (approximately €112 million).

Law stated - 11 January 2023

Enforcement process

Can the competition enforcers impose sanctions directly or must they petition a court or other authority?

Pursuant to section 29 of the CA, the Competition Authority may issue administrative fines directly. Criminal sanctions must be decided by a court (or by way of the undertaking in question accepting a fine proposed by the public prosecutor). Violations of section 11 of the CA are in themselves not subject to criminal sanctions.

Law stated - 11 January 2023

Enforcement record

What is the recent enforcement record in your jurisdiction?

Section 11 of the CA has been infrequently enforced. After its adoption in 2004, the ambition of the NCA was to enforce the provision in more than one case annually. However, this ambition has not been met.

After its adoption, the NCA has adopted three landmark section 11 decisions. The SAS decision in 2005 concerned predatory pricing in the air transport industry and was settled during appeal proceedings. The Tine decision in 2011 related to exclusionary practices in the dairy sector and was subsequently quashed by the courts. In 2018, the NCA fined Telenor ASA 788 million kroner for abuse of dominance in the market for retail mobile services. This is the highest fine ever imposed by the NCA.

Law stated - 11 January 2023

Contractual consequences

Where a clause in a contract involving a dominant company is inconsistent with the legislation, is the clause (or the entire contract) invalidated?

As under article 102 of the TFEU and article 54 of the EEA, contracts are void as far as they are in breach of section 11 of the CA. Thus, if it is possible to separate the unlawful provisions from the remaining terms, the latter will be valid and enforceable. The assessment of partial versus total invalidity is a matter of general Norwegian contract law.

Law stated - 11 January 2023

Private enforcement

To what extent is private enforcement possible? Does the legislation provide a basis for a court or other authority to order a dominant firm to grant access, supply goods or services, conclude a contract or invalidate a provision or contract?

Private parties may enforce alleged breaches of the CA in national courts. Although not a requisite for private enforcement, if there is a prior decision or judgment confirming the breach of the CA, the statutory limitation is prolonged to one year after that final decision or judgment.

It is possible to initiate private enforcement actions before national courts in order to compel a dominant firm to grant access, supply goods or services, or conclude a contract.

The Patent Act of 15 December1967 No. 9 contains a provision that empowers the NCA to grant compulsory licences

based on a substantive assessment that for all practical purposes corresponds to that applied pursuant to section 11 of the CA. This provision is rarely used in practice.

Law stated - 11 January 2023

Damages

Do companies harmed by abusive practices have a claim for damages? Who adjudicates claims and how are damages calculated or assessed?

Companies harmed by abusive practices can claim damages (economic loss). This is executed by way of general court proceedings if an out-of-court settlement cannot be reached. Class actions are possible pursuant to Chapter 35 of the Dispute Act of 17 June 2005 No. 90, which governs civil procedures.

Law stated - 11 January 2023

Appeals

To what court may authority decisions finding an abuse be appealed?

Decisions of the NCA finding an abuse may be appealed to the Competition Complaints Board and the appellate body may examine and consider all aspects of the case – both facts and law. The Competition Complaints Board handles all complaints against decisions by the NCA, including in dominance cases. The district courts no longer review appeals against NCA decisions in abuse cases as they did before. However, decisions from the Complaints Board may subsequently be appealed to the Gulating Court of Appeal in Bergen. Judgments of the Gulating Court of Appeal can be appealed to the Supreme Court of Norway. However, any matter brought before the Supreme Court must initially be considered by the Appeals Selection Committee, and an appeal cannot be brought before the Supreme Court without the leave of the Committee. Such leave to appeal may, for example, be granted in cases that raise matters of principle beyond the specific subject matter of the issue in dispute.

Law stated - 11 January 2023

UNILATERAL CONDUCT

Non-dominant firms

Are there any rules applying to the unilateral conduct of non-dominant firms?

Norway is not part of the EU. Nevertheless, the substantive scope of section 11 of the Competition Act No. 12 of 5 March 2004 mirrors article 102 of the Treaty on the Functioning of the European Union and article 54 of the Agreement on the European Economic Area. There are no rules applying to the unilateral conduct of non-dominant firms.

Law stated - 11 January 2023

UPDATE AND TRENDS

Forthcoming changes

Are changes expected to the legislation or other measures that will have an impact on this area in the near future? Are there shifts of emphasis in the enforcement practice?

The Act on good trading practices of 17 March 2020 No. 29 was adopted by the Norwegian parliament after several

years of discussions and entered into force on 1 January 2021. The Act is enforced by a new supervisory body for the grocery trade. This law does not raise any concerns with respect to the principles that apply to dominant firms pursuant to section 11 of the Competition Act 5 March 2004 No. 12. However, in the wake of this Act, it is expected that the Norwegian Competition Authority may prioritise leading firms in the market for food and groceries in their enforcement of section 10 (mirroring article 101 of the Treaty on the Functioning of the European Union) and section 11 of the Competition Act.

Further, at the end of 2022, the Ministry of Trade and Fisheries conducted a hearing related to a new regulation on prohibition of unreasonable differences in purchase prices in the value chain for food and groceries. A decision has not been made as to whether the regulation will be proposed.

Law stated - 11 January 2023

Jurisdictions

Australia	Gilbert + Tobin
Austria	Schima Mayer Starlinger
Belgium	Cleary Gottlieb Steen & Hamilton LLP
Bulgaria	Wolf Theiss
Canada	Baker McKenzie
China	DeHeng Law Offices
Denmark	Bruun & Hjejle
Ecuador	Robalino
European Union	Cleary Gottlieb Steen & Hamilton LLP
France	UGGC Avocats
Germany	Cleary Gottlieb Steen & Hamilton LLP
Greece	Nikolinakos & Partners Law Firm
Hong Kong	Eversheds Sutherland (International) LLP
India	Shardul Amarchand Mangaldas & Co
Indonesia	ABNR
Ireland	Matheson LLP
Italy	Rucellai & Raffaelli
Japan	Anderson Mōri & Tomotsune
Morocco	UGGC Avocats
Norway	Advokatfirmaet Thommessen AS
Portugal	Gomez-Acebo & Pombo Abogados
Saudi Arabia	Al Tamimi & Company
Singapore	Drew & Napier LLC
Slovenia	Odvetniska druzba Zdolsek
South Korea	Yoon & Yang LLC

Switzerland	CORE Attorneys Ltd
Turkey	ELIG Gurkaynak Attorneys-at-Law
United Kingdom	Cleary Gottlieb Steen & Hamilton LLP
USA	Cleary Gottlieb Steen & Hamilton LLP