## Investigative techniques

- The toolbox
- How and when to use it
- The Arla-case example



#### The tool box

- Obligation to supply information
- Obligation to appear at interviews
- Inspections (dawn-raids)
  - Decision by the Stockholm City Court upon application by the Swedish Competition Authority (SCA)





## The Arla case - background

- Arla Foods is a dairy cooperative owned by 7 996 farmers, 4 060 Swedish and 3 906 Danish.
- Arla stands for about 65 percent of the collection of raw milk in Sweden.
- Arla stands for 55 percent of the sale of dairy products to the Swedish grocery market



The Swedish grocery market is very concentrated







## The Arla case – background

- Anonymous compliant: Arla is abusing it's dominant position by using an exclusionary strategy in it's agreements with the grocery chain Coop (a substantial part of the grocery market)
- The agreement is non exclusive by wordings but things are happening behind the scene



# The Arla case – investigative techniques

- Overt or covert investigative tools?
- Covert dawn-raid or market intelligence
- Overt interviews or request for information



# The Arla case – investigative techniques

- A dawn raid was conducted
- The SCA looked for information regarding rebates, other kick-backs, marketing grants and strategy documents used to implement the agreement between Arla and Coop
- We ended up with a lot of documentation that could indicated an abuse but no real smoking gun

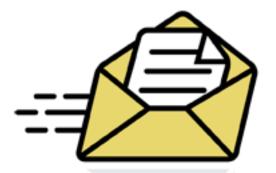


## Request for information (RFI)

- Factual questions about for example the market, data, implementation of agreements, etc.
- Normally we use a two or three step model
  - RFI, Order to supply, Order to supply under a penalty of a fine
- Always with a time limit normally two weeks
- Arla, other dairy companies, Coop, other grocery chains, etc. received letters with RFI



#### **RFI**



- Normally used many times during an investigation
- Very common and useful investigative tool
- The design is very important try to be specific
- Drawbacks intentional or unintentional misunderstandings



#### **Interviews**



- Often used to follow up written information or to get information/evidence that only exists orally
- When and with whom?
- Where and who?
- Documentation record and transcript



#### The Arla case - interviews

Interview themes towards Coop

- Implementation and strategy documents
- Rebates/marketing grants
- Legal issues concerning the exclusivity



### Interviews – some piece of advice

- Preparation is very important write down your questions but be flexible
- Let the person speak as freely as possible
- Try to avoid asking leading questions
- Self-incrimination issues
- Should it be used as evidence?



### Sum up

 Use all of the toolbox but consider the order in which you do it

Prepare carefully

 Getting good oral information is an art, use your best guys!

