

# 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 its dominant position by using an exclusionary strategy in its 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 indicate 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
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# 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?
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# 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!