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Competition Assessment

An Icelandic perspective

Samkeppniseftirlitið – Icelandic Competition Authority (ICA)

According to Article 1 of the Competition Act the Act is meant to promote active competition and contribute to the efficient use of society's resources.

According to Article 2 the Act applies to all types of business activity regardless of whether it is carried out by individuals, companies, public entities, or others.

According to Article 8 ICA's role is among other to ensure that actions by public authorities do not restrict competition and advising authorities on ways to make competition more effective and to facilitate market access for new competitors.

In Article 18 it says that If ICA considers that provisions of laws or regulations conflict with the objectives the Act and hinder free competition, it shall draw the relevant Minister's attention to that opinion.





ICA's role regarding public restraints on competition

Since the enactment of the first Competition Act in the 1990s, one of ICA's primary responsibilities has been to address issues concerning public restrictions on competition.

ICA fulfills this role through various means, including providing commentary on legislative bills, issuing opinions to government bodies, and deciding on the financial separation of accounts in cases where public entities both compete in the market and perform public service functions.

Competition assessment in Iceland

ICA has for a long time advocated for the use of OECD's Competition Assessment Toolkit in Iceland.

In 2009, ICA published Opinion No. 2/2009, Competition Assessment by Public Authorities, in which it urged the Prime Minister to promote a requirement for government authorities to conduct standardized competition assessments when preparing new laws and regulations. (Toolkit updated in [2019](#))

The ICA conducts assessments and issues recommendations/ opinions. **Example:** Report [No. 2/2008](#), in the wake of the banking collapse. Recommendations concerning 15 sectors.

OECD's 2020 competition assessment review in Iceland, covering the building and tourism sectors, was carried out in cooperation with ICA and the Ministry of Tourism, Industry, and Innovation.

Competition assessment in Iceland, cont.

On February 24, 2023, the Government implemented a framework for Assessment of Legislative Impact. The assessment is a checklist that is to be filled out in when assessing new legislation proposed by the Ministries.

In section C of the checklist, four questions are asked concerning competition:

- a) The likelihood that the number of companies in the market will be directly restricted due to regulation (likely if the measure involves some kind of exclusivity, licensing system, or quota).
- b) The likelihood that the number of companies in the market will be indirectly reduced due to regulation (likely if the measure involves increased costs of entering the market or applies only to part of the companies already operating).
- c) Restrictions on companies' ability to meet competition due to regulation (likely if the measure affects company prices or the nature of the product, e.g., standards, or if the measure limits the sales area, scope for advertising, or how the product is produced).
- d) Restrictions on companies' initiative to engage in active competition due to regulation (likely if the measure entails that companies are exempt from competition law, or if companies are required or encouraged to share any kind of business information)." (ICA translation)

What conclusions can we draw from the experience so far?

Prior ICA Opinions and Recommendations

Opinions and Recommendations 1994–2025				
Recommendations followed	Recommendations partly followed	Recommendations not followed	Compliance uncertain	Total
39	20	25	59	143

ICA has informally collected information on Opinions and Recommendations, excluding the review of legislative proposals.

According to this incomplete review in most cases recommendations are not followed to the letter.

Prior ICA opinions and recommendations, examples



01 **Transport**

ICA has issued multiple opinions and recommendations regarding the transport sector in Iceland.



02 **Primary Healthcare Centres**

Privately operated health care centres have complained that they are being discriminated against in their operations compared to publicly run primary care clinics.



1. ICA's Opinions and Recommendations in the Transport Sector

ICA has issued several opinions and recommendations concerning the transport sector.

The sector is vital to any economy, and particularly important for Iceland's island economy.

ICA's investigation of the transport cartel revealed certain public restraints on competition within the sector.

ICA's Opinions and Recommendations in the Transport Sector

Government authorities and other public bodies have, to a considerable extent, not acted upon the opinions and recommendations issued by ICA in the transport sector.

The potential benefits to competition and the wider economy are substantial and should not be overlooked.



ICA's Opinions and Recommendations in the Transport Sector

Examples of public restraints on competition in the transport sector:

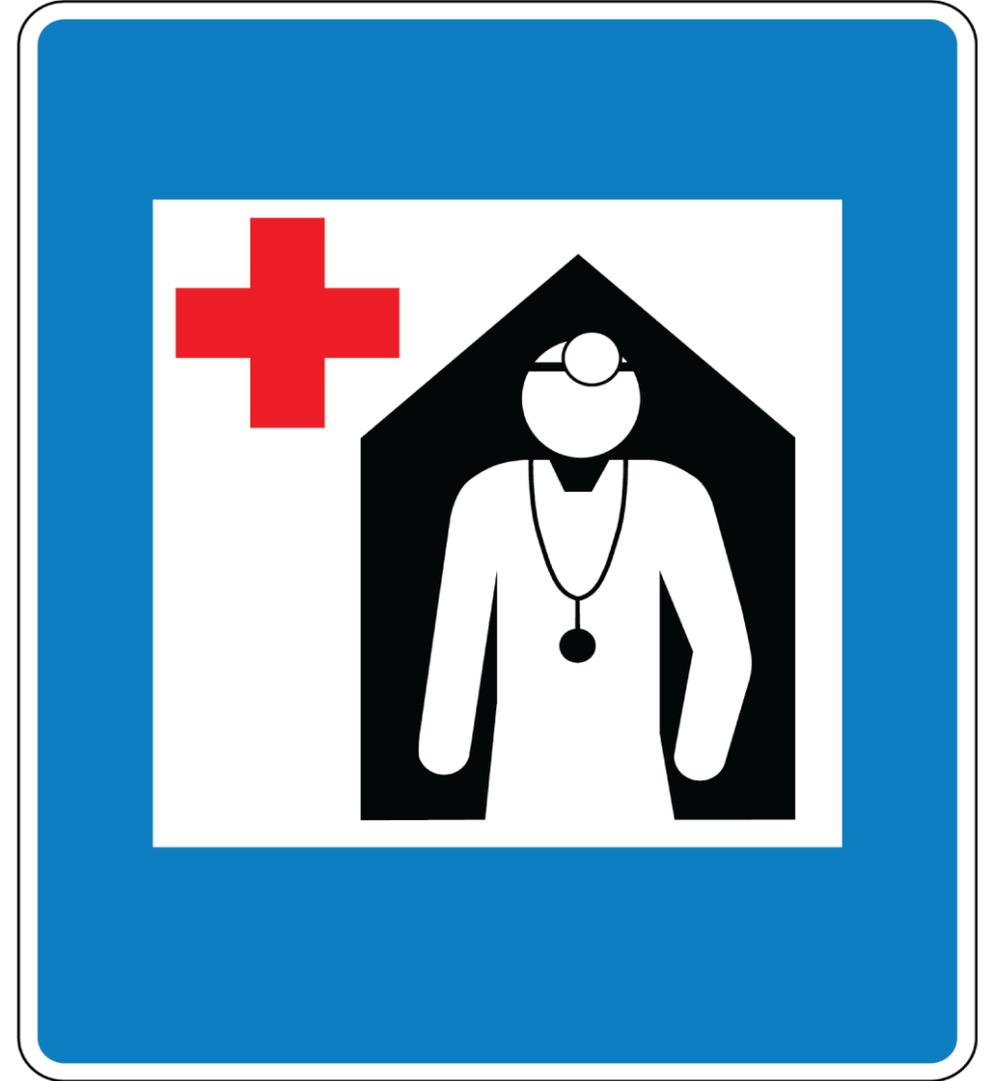
- Under current regulations, Keflavík Airport is designated as a slot-constrained airport, which significantly limits the ability to allocate commercially important slots to new entrants.
- Faxaflóahafnir, which owns and operates all seaports in the Capital Area, does not own cranes and other essential port equipment in Sundahöfn. As a result, incumbent shipping companies — Samskip and Eimskip — effectively control access to key port infrastructure.
- The City of Reykjavík owns the only full-service bus terminal in the city and has leased it to the country's largest tour operator, which limits access for competing operators.

2. Recommendations – Primary Healthcare Centres

Contract offered in 2016 to private operators for three new primary healthcare centers in the Capital Area.

ICA provided certain guidance and advice to the Icelandic Health Insurance prior to the tender.

Post-tender: private clinics raised concerns over alleged discrimination and non-competition neutrality towards them.



Recommendations – Primary Healthcare Centres

In 2017, ICA received a complaint from a privately operated healthcare center.

The complaint alleged that privately operated healthcare centers were being discriminated against, for example with respect to costs for blood tests and other diagnostics, insurance fees, and VAT treatment.

The complaint represents a classic case related to competition neutrality, an issue that the OECD has examined extensively ([see recommendations](#)).

In such cases it is important to distinguish between normal differences arising from different operating models and genuine issues that affect competitive neutrality.

Recommendations – Primary Healthcare Centres

ICA issued certain recommendations to Health Minister and Iceland Health Insurance:

- A general review should be conducted of the differing conditions faced by public versus privately operated healthcare centers.
- The Minister of Health should, among other things, ensure that the differences in conditions between public and private healthcare centers regarding patient insurance are examined, and that measures are taken to equalize the competitive position of parties in this regard.
- The Minister of Health should ensure that Landspítali (Iceland's main hospital) does not discriminate against businesses in comparable transactions.
- The Minister of Health should ensure that a clear and well-defined framework is established for the services that the Capital Area Primary Healthcare is intended to provide to private healthcare centers. This would ensure that clear agreements and rules govern these transactions and interactions.
- The Minister of Health should ensure that the tax treatment of the operations of public and private primary healthcare centers is made as equal as possible.

Recommendations – Primary Healthcare Centres - outcome

Following ICA's recommendations, certain changes were implemented to address the concerns of private healthcare centers, for example regarding insurance and VAT.

However, last year ICA received further complaints from privately operated healthcare centers alleging that they were still being discriminated against—for instance, that laboratory costs at Landspítali remained significantly higher for private centers.

ICA subsequently opened a case and has been in discussions with the Ministry. While the case remains open, some adjustments have now been made, including reductions in laboratory costs.



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Thank you