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## Summary

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# The Swedish Consumer Agency's supervision of marketing and contract terms

## Summary

The Swedish National Audit Office (Swedish NAO) has audited whether the Swedish Consumer Agency's supervision of business operators' marketing and contract terms is appropriate and effective. Our assessment is that supervision is mainly appropriate and effective, and that the Swedish Consumer Agency has started improvements that address several of the current deficiencies. In the period 2014–2019, the Swedish Consumer Agency gave priority to other areas of activity due to government assignments that required a lot of the agency's joint resources, but is now focusing more on improving conditions for supervision. However, the Swedish Consumer Agency needs to further pursue more appropriate risk analyses.

## **Methods for identifying consumer problems are by and large appropriate but risk analyses can be developed further**

The Swedish Consumer Agency's methods for identifying consumer problems are to a large extent appropriate. However, there is a risk that consumer problems remain undetected since some types of channels are not monitored to the same degree using current methods and tools. For example, the Swedish Consumer Agency has insufficient tools to detect consumer problems in digital markets. Nor is the agency sufficiently systematic in its use of risk analyses as a basis for directing supervision. Assessments of consumer damage in various markets could

be more useful as a basis for risk analyses if the methodology is developed to also assess structural consumer damage. This means, for example, that infringements of consumer protection regulations impact a larger number of consumers in the same way and an entire market is adversely affected.

### **Methods for priority are by and large appropriate**

The Swedish Consumer Agency has divided supervision into ten focus areas that cover particularly problematic markets, and an eleventh area for markets that do not belong to any focus area. The agency's methods for selecting which consumer problems are to be addressed are to a large extent appropriate for the agency to be able to make well-founded priorities within the focus areas. Consumer problems that entail economic damage or that affect many people weigh heavily in the decision on priority. However, the criteria used in the priority decisions are not defined sufficiently clearly to ensure that similar assessments are made in the different focus areas. The Swedish Consumer Agency does not use a structured approach to monitor consumer problems that could lead to supervision cases but that are not made a priority. Thus, there is no systematic connection to the risk analyses on whether there may be serious consumer problems for which the Swedish Consumer Agency has not prioritised efforts. Most focus areas have internal lists of interesting suggestions that could become relevant for supervision. The lists are used in various ways. It is unusual for such suggestions for continuous supervision cases to be raised again once they have been removed from the priority list.

### **Supervision largely results in priority consumer problems being counteracted**

The Swedish NAO finds that supervision to a large extent counteracts the consumer problems that the Swedish Consumer Agency selects for supervision. A large proportion of the business operators that are subject to continuous supervision comply with the Swedish Consumer Agency's opinion. Hardly any cases are terminated because there is insufficient evidence for the Consumer Ombudsman - a function within the Swedish Consumer Agency - to be able to pursue the case further. However, follow-up of continuous supervision cases could be more systematic.

### **The Government's results assessment is not sufficiently adequate**

The key indicator used by the Government to report results of the supervision is the proportion of companies that willingly comply with the Swedish Consumer Agency's supervisory decision. This is not sufficiently adequate because it does not

take into account the fact that the conditions for achieving voluntary compliance differ from one case to another. Therefore, the indicator gives a deficient picture of the effects of supervision on unscrupulous business operators.

## **Recommendations**

The Swedish NAO makes the following recommendation to the Government

- Consider supplementing the indicator on results assessment of the Swedish Consumer Agency's market legal supervision with additional indicators or assessments to give a comprehensive picture of how that supervision is developing. This applies to, for example, the Consumer Ombudsman's measures based on the supervision.

The Swedish NAO makes the following recommendations to the Swedish Consumer Agency

- Develop a method for assessing structural consumer damage and carry out regular assessments within different areas to ensure that supervision is focused on areas where it can have the greatest benefit.
- Clarify how the focus areas are to work continuously on risk analyses to be able to assess whether there are problems that are over- or underrepresented in the supervision.