

**EUROPEANIZATION AND
TRANSNATIONAL
NETWORKS.**

**A STUDY OF THE
NORWEGIAN COMPETITION
AUTHORITY**

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Europeanization and Transnational Networks. A Study of the Norwegian Competition Authority

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Abstract: This paper addresses the emergence of transnational regulatory networks by focusing on the Norwegian Competition Authority. The main research questions are: a) What processes have contributed to the Norwegian Competition Agency's increasing participation in transnational networks; b) How important are domestic actors and European and transnational networks for the emergence of competition regulation; and c) What are the expectations and implications of participation in transnational networks? We examine international, European and Nordic networks in this policy field and analyze them in terms of three theses: Europeanization, nationalization, and a differential thesis. The last one, which is linked to multi-level governance systems, has the strongest explanatory power.

Key words: Competition Authority, EU competition regulation, regulatory networks, ECN, Norway

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Introduction¹

Over the last decade we have witnessed a rise in new cooperative frameworks at the intersection between international and domestic systems of governance (Egeberg 2006, Martens 2010). Key decisions are increasingly being made outside the scope of national executives and handled by semi-autonomous agencies operating across different levels of government in transnational networks (Christensen and Læg Reid 2006a, Cutrin and Egeberg 2009). This development has been especially strong within the policy area of economic regulation and competition policy, raising the question whether we are facing new modes of governance in this policy area (Ysilkgagit 2008).

In this paper we look at the involvement of the Norwegian Competition Authority in transnational networks. This represents a major change in the agency's mode of operation and is rooted in international and European as well as domestic processes that have had an impact on the agency and on competition regulation. We examine to what extent this has contributed to a Europeanization of the competition agency and address how the relationship between various levels of governance influences the characteristics and structures in this particular policy field. The transnational network has brought about a vast multi-level cooperation, causing the location of decisional power and the origins of legitimacy and regulation to become blurred. In this paper we will describe and differentiate these networks, examine their various impacts on participants and identify the main processes behind their development. We ask:

- a) Which domestic and European processes have contributed to the Norwegian Competition Agency's increasing participation in transnational networks?

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- b) Does competition regulation originate domestically, at the European level, in transnational networks or in a co-evolution between these levels?
- c) What are the expected outcomes and implications of participation in transnational networks?

This paper is based on three theoretical viewpoints (Eberline and Grande 2005). First, the Europeanization thesis, of which Majone (1994, 1996, 1997 and 2000) has been the leading proponent, holds that regulatory power is possessed mainly by European institutions. A counter-thesis to this is the nationalization thesis, where the focus is on domestic activities and institutions (Gilardi 2002). While not rejecting the role of the EU in opening up new markets and areas of trade, it asserts that the power to regulate resides with national governments. The third theoretical position is the differential thesis, which argues that the regulatory powers are distributed across several layers of government. In this paper we will link this last thesis to the multi-level governance approach (Hooghe and Marks 2001).

Empirically we will cover most networks the Norwegian Competition Authority is involved in. These include formal international networks such as the ICN (International Competition Network) and the OECD, EU networks such as the ECA (European Competition Authority) and the ECN (European Competition Network), and Nordic cooperation networks as well as more informal ones. We will focus mainly on European networks because these seem to have the strongest impact on domestic competition policy. The inclusion of international and Nordic cooperation is due to the fact that one cannot isolate European influence and effects of domestic institutions from wider international impacts (Olsen 2002b).

With respect to the development of transnational regulatory networks the Norwegian case is special. Norway is not a member of the EU but has access to the internal EU market through the Economic Area Agreement. It is a prime example of how a non-EU country's competition authority participates in core regulatory networks in ways that are pretty similar to those of EU member states' national competition authorities. Thus we will show that de-facto Europeanization along this dimension is rather different from formal-legal Europeanization.

The data base consists of public documents such as white papers, annual reports, and parliamentary debates as well as various reports from expert commissions, from the Competition Authority itself and from the various networks. Another main data source is interviews with the Competition Authority's key participants in transnational networks and with ministerial employees.² The data are primarily from 2006/2007, allowing us to look at how network participation fared in the years immediately after the establishment (in 2004) of the main transnational network – the European Competition Network (ECN).

We will first outline the context by focusing on the transformation of the European competition regime as well as the Norwegian competition regulations. Second, we will present the theoretical approach by expanding on the three hypotheses. Third, we will describe the network structure by focusing on international networks, European networks and Nordic networks. Fourth, we will examine participation in these networks by addressing ministerial control mechanisms, legal and cultural aspects, and enforcement and role conflicts. Fifth, we will analyze the findings in relation to the Europeanization, nationalization and differential theses. Finally, we will draw some conclusions and look at some implications.

Context

The transformation of the European competition regime

Ever since the foundation of the European Community competition policy has played a significant and distinct role in efforts to create a single unitary market. Embedded in the constitution of the Community since the Treaty of Rome and with implementation powers delegated to the European Commission through “Regulation 17” since 1962, competition policy soon became one of the most centralized and powerful of the Community competences (Wilks 2005, McGowan 2000). This meant that the

² For a more detailed description of the data base see Stenby (2009). This paper is to a great extent based on this thesis.

Jerusalem Papers in Regulation & Governance

Commission had the authority to approve agreements between firms that could affect trade between member states, control state subsidies and European-scale mergers, and liberalize sectors traditionally dominated by state actors. But monopoly and centralization came at a price, for as the EU expanded and the need for market regulation grew, the Commission simply did not have the capacity or the resources to fulfill its obligations. From 1988 to 1998 only 13 % of all competition policy cases were conducted on the initiative of the Commission itself (Commission 1999); indeed, the Commission tended to play a reactive rather than proactive role. With the prospect of further EU enlargement, something had to be done, so in 1999 the commission published a white paper suggesting decentralized enforcement. This paper was accepted by the Council, which adopted the modernization regulation in 2002 as regulation 1/2003 (Wilks 2005: 434). Its main feature was the decentralization of law enforcement and regulatory powers (Støle 2006). Member countries were hereby granted the competence to enforce Articles 81 and 82, which included the exemption provisions previously reserved only for the Commission. These rules were to be enforced parallel to domestic competition rules, and in cases of conflict, EU rules took precedence. This created incentives to harmonize domestic legal systems to comply with the new competition regime (Montag and Rosenfeld 2003).

Secondly, with the Commission relieved of its burden it could now to a greater extent concentrate on substantial, significant and active law enforcement. Thirdly, the Commission's auditing mechanisms were amplified to ensure its authority and influence in the handling of EU law. In practice this gave the Commission the power to take over investigations from national agencies, thus releasing them from their obligations, as well as to carry out its own investigations and conduct inquiries into trade between three or more member states.

Finally, it was decided to establish a joint competition network, the ECN. This was a unique creation in terms of governance and delegation. Designed to be the central node in the delegation of investigational competences between member states, its job was to make sure that community/EU law was used and implemented in similar ways by each member state. It also soon became an arena for harmonizing practices and law enforcement and for the development of a competition culture seemingly dominated by the Commission. The ECN was set up to solve the decentralization

problem – namely, the risk that by giving individual states the leeway to interpret community legislation national norms and institutions might not fully harmonize with one another, which would in turn produce asymmetries in the national implementation of European norms (Eberlein and Grande 2005). Some claimed that the reform did not in fact constitute a decentralization, but rather reinforced supranational dominance under the guise of subsidiarity (Wilks 2005).

One of the most substantial consequences of the modernization reform was the clear restriction of the scope of domestic competition laws. Community law was given precedence in any conflict between national rules. This limited the introduction of national restrictions that diverged from EC law and provided the basis for removing the separation between national and community legal systems.

The transformation of the Norwegian competition regime

In this section we will briefly summarize various developments at the domestic level that led to an acceleration in network participation. Since our focus is the Norwegian Competition Authority, we will start by looking at the introduction of the new national competition law. We will do this firstly, because the new law was introduced simultaneously with the EC modernization reform and secondly, because not only the law itself but also the process leading up to its implementation was significantly influenced by European developments. This not only resulted in a harmonized legal system, but also made information supplied by European actors a vital requirement for the implementation of the competition regime itself.

Since the referendum in 1994 when Norwegian voters voted against Norway becoming a member of the EU, the domestic market has been subjected to two legal systems –EEA competition law and national competition legislation. Fundamentally these two sets of rules were based on divergent doctrines. The Norwegian competition regime had traditionally been based on price regulation rather than on regulating free market trade, Although the introduction of a new competition law in 1993 went some way to changing this, it did not iron out the differences with the European legal system (Bue 2000). The Norwegian competition law was based on an abuse system.

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This principle states that regulators prohibit actions depending on an individual assessment of each case. The EU principle, by contrast, clearly defines the legal boundaries, which ban all actions unless certain exceptions are made. The two legislative systems created enormous difficulties, not only for the regulators – the EFTA Surveillance Authority (ESA) and the Norwegian Competition Authority – but also for the actors subject to their auditing. For instance, it was not always clear which set of rules should be applied in which case. Unfortunately, there was no clear regulating of the restrictions for each legal regime.

An expert committee was appointed by the first Stoltenberg cabinet in 2000 to assess the feasibility of having two separate and divergent legislative systems regulating the domestic market. In addition, it was tasked with finding ways of keeping the agency better informed in order to increase its impact and to cope with the demands that the regulatory reform was expected to produce. In 2003 the Committee concluded its work by issuing an Official Report on a new Norwegian Competition Law (NOU 2003:12) which was finally implemented in 2004. The new law was largely an imitation of EU competition legislation, and included rules similar to Articles 81 and 82. In addition it stated the intention to harmonize the use and interpretation of rules with the EU rules (Bertelsen 2006, EØS utvalget 2006). We will refer to these signals as the harmonization goal.

There were two main arguments behind the new law. The first was that the blurring of boundaries between markets brought about by the accelerating globalization and internationalization of the Norwegian economy meant that national competition laws were hampered by crosscutting markets and a lack of committed agency cooperation. Second, the EU regulatory reform which was designed to decentralize enforcement of community law was expected to delegate obligations to the competition agency. This was based on various signals from the ESA and the Commission which indicated that Norway might take part in the decentralized enforcement.

Theoretical framework

In this section we present the theoretical framework for the study by elaborating on each hypothesis in terms of its relevance to the European regulatory regime. These perspectives offer three explanations for the location of regulatory authority: the function of transnational networks; the role division between national and supranational institutions; and the tasks, roles and functions allocated to network participants. Although they offer alternative explanations, there is also a lot of interaction between the different processes (Egeberg and Trondal 2009). Thus we also need a complementary strategy to deal with our varied theoretical perspectives (Roness 2009).

Europeanization thesis

The Europeanization thesis asserts that the transition from the “positive state” to the “regulatory state” has led to the delegation of regulatory power from the nation-state to the supranational level (Eberlein and Grande 2005). This is why the regulatory state is located at the European level and not in the member states. In line with this thesis we regard this development as a product of legislative and institutional harmonization of the EU member states as well as of the delegation of regulatory authority from the nation-states to the EU. Regulation and Europeanization are therefore two mutually enhancing developments (Eberlein and Grande 2005: 89). This view seems to be well founded empirically by the overwhelming expansion of European regulation. Majone (1994, 1996, 1999) proposes several explanations for this. Compared to its member states the EU has a small budget and administration, and has directed these more towards regulation than to the allocation of scarce resources. From a European standpoint, it could be claimed that it is less controversial politically to regulate than to redistribute national resources, mainly because regulation is less exposed to political pressure. In this analysis rule setting and regulation can be viewed as a means for the EU to strengthen its legitimacy given its lack of power in the traditional sense. From a member state’s point of view it could be argued that the delegation of regulatory authority produces more effective auditing than if the states were to agree

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on mutual and harmonized regulation themselves as well as more credible commitments (Majone 2001).

In line with the Europeanization thesis we would expect transnational networks to be one of the tools available to the Commission for regulating Europe. In addition it also offers a means of harmonizing national competition policy, agency norms, culture and interpretations of national legislation. The networks themselves may not be viewed as independent actors, but simply as an integral part of the EU administration. Thus, they ensure the uniform enforcement of community rules that may have been threatened by nationalization brought about by the regulatory reform. In fact we could expect the networks to encourage a continued centralization of European competition policy. Participants from the Norwegian Competition Agency will be expected to have a minimal influence on the networks' agenda, decisions and guidelines, to play a largely passive and reactive role, and to adopt policy tools from the EU, with major implications for national competition regulation. In addition, national control of network activity will probably be weak. We will expect the ministry to grant agency participants a wide degree of operational autonomy.

Nationalization thesis

The following approach may be viewed as the counter-thesis to the Europeanization perspective. Regulatory literature and studies revolving around this thesis concentrate on national activities and policies (Gilardi 2002). Less attention is directed towards the European level, because regulation is conceived as a task primarily handled by national institutions such as ministries, parliaments and courts. This perception is also based on the establishment and strengthening of national regulatory agencies in areas recently privatized and liberalized. Some of these complex and differentiated agencies have gained extensive autonomy and often essential regulatory functions (Gilardi 2002, Christensen and Læg Reid 2006b).

In spite of the indisputably strong national focus of this approach, it does not deny the role played by European institutions in the opening and liberalization of new markets. However, it is claimed that while European institutions may pursue “negative integration”, their inability to perform “positive integration” causes a build

up of national regulatory capability (Scharpf 1999). In contrary to the Europeanization thesis, Europeanization of regulatory policy therefore leads to the “deregulatory state” rather than the “regulatory state” (Eberlein and Grande 2005).

In line with this perspective we will presume that the EU regulatory reform has contributed to the delegation of European decision-making authority with respect to competition policy and regulatory activities. Since the focus lies on national institutions, transnational networks cannot be seen as independent actors or levels of governance but instead as arenas for cross-national conflict or voluntary collaboration. Network participation is expected to be based on the structural interests of member states.

The Norwegian Competition Authority and its parent ministry will be expected to cooperate or compete against other nations in the pursuit of influence and authority in the networks. The agency is likely to operate proactively in order to ensure its national interests, and it also acts on behalf of the ministry, which limits the leeway for agency initiative.

Although different in terms of their institutional focus and view of structural links, there is some overlap between the two approaches, particularly with respect to formal institutions and static regulatory activity. There seems to be no particular interaction between levels of governance, and regulatory activity is primarily based at one level, either European or national. This is quite contrary to the next thesis which focuses on formal as well as informal institutions, and on dynamic interaction between levels of governance.

The differentiation thesis and multi-level governance

Instead of focusing on one level and static policy development, the multi-level governance outlook offers a descriptive model of the increased variation and complexity of European policy thought to be the result of the inclusion of new actors and institutions at the expense of traditional ones. Marks (1993) claims that non-governmental actors such as the Commission and sub-national authorities are playing an increasing role in policy development in certain areas because previously

centralized state activities are being shifted to the supranational and regional levels in a broad process of institutional build up and relocation of decisional authority. A centrifugal process is spreading decisional authority in two directions – vertically towards actors at different territorial levels and horizontally towards other, non-governmental actors (Bache and Flinders 2005, Georg 2005). This process has led to a decline of state monopolies and a reallocation of territorial and functional aspects from national government to other levels of governance. This development is supposed to produce a system characterized by regular negotiation between connected governmental actors and institutions at different levels (Marks 1993: 392).

Such a system creates arenas where the state lacks control and where common rules and norms regulate policy developments and the relationship between various levels of governance. This may lead players to enhance their strategic position, with sub-national actors seeking to escape national control, and supranational institutions such as the Commission using it to strengthen their position vis-à-vis state institutions or sub-national actors.

Egeberg (2002, 2005, 2006b) shows how the Commission has gained a unique position in this system as the only multi-purpose executive body at the international level that is organizationally separate from the Council of Ministers. This additional leeway has given the Commission the freedom to intercede with loyal allies at the national level capable of implementing EU policy. These allies are to be found amongst national regulatory agencies that over the last few years have been organized at arm's length from their respective ministries (Egeberg 2006a: 2). Through participation in transnational networks and expert groups, national agencies have been able to create direct links with the Commission without being limited by state or ministry control.

The increased use and expansion of transnational networks is, according to the differentiation thesis, related to the increased need for standard regulation of the internal market and to the challenges presented by the lack of national affiliation and of resources, authority and regulatory capacity at the European level. This makes regulatory authority and capacity uneven and generates a regulatory gap between the European and national levels. According to the differentiation thesis this gap is being bridged by a new type of informal institution – transnational networks – which have

become a central factor in the European mode of cooperation (Van Warden and Drahos 2002, Eberlein and Grande 2005, Wilks 2005, Martens 2006). They represent a simple way of creating uniform and harmonized regulation without having to rely on traditional formal power and authority. They embody a unique institutional solution in which harmonization and Europeanization can be achieved via relatively uncontroversial measures and without having to compromise with national requirements.

The relationship between the European and national regulatory institutions is, according to the differentiation thesis, characterized by a particular division of labour. While the European level formulates the agenda, framework and structure of competition regulation, national agencies implement its policy and flesh out the details (Eberlein and Grande 2005). In terms of competition policy it could therefore be claimed that the Commission regulates the regulators. This interaction takes place in transnational networks outside traditional modes of communication and division between the national and European level.. Although the relationship is somewhat asymmetric it is not expected to be characterised by only downloading of regulatory policy from European institutions.

In line with the differentiation thesis we would expect transnational networks to operate with considerable autonomy as independent levels of governance. They consist of representatives from national competition agencies and the Commission, and their purpose is to develop a common European competition policy. Information and influence are expected to be spread across different layers of governance and the interaction to be dynamic and negotiated.

Competition regulation is a result of cooperation between various actors on different levels of governance. Europe therefore cannot be regulated at one level alone. Networks outside the European sphere must likewise be expected to influence Norwegian competition policy. Information and knowledge are thus supplied by via broad transnational cooperation that is both formal and informal, and both international and Nordic as well as European.

Network participants will be expected to operate in networks subject to some restrictions from national ministries, but also to influence the network as well as being

influenced by it. The interaction will be characterized by downloading of regulatory policy from the EU as well as uploading from the national level to the EU level. The overall goal is to help harmonize competition policy through the absorption of norms, competition culture and rules of action.

Network structure

In this section we map and describe the main forms of international, Nordic and European network cooperation in which the Norwegian Competition Agency participates. Our goal is to show the broad interaction taking place between different actors and institutions in networks distinguished by objectives, participants, decision-making procedures, agency affiliation and power structures. In line with the differentiation thesis and the multi-level governance perspective we cannot understand regulatory activity by focusing only on a single source or location (Hooghe and Marks 2001, Eberlein and Grande 2005). Because regulation originates at various levels, the “regulatory state” is to be found in a complex governance system involving a multitude of actors engaged in coordination and harmonization activities in established transnational networks.

The relationship between informal and formal networks is often close and the boundaries between them blurred and unclear. Often they consist simply of personal contacts initiated by participants in formal networks. Since many participants represent their agency on a variety of occasions in many different arenas, they have multiple opportunities for meeting other actors from different spheres and levels of governance. Agency resources are limited, so the Competition Authority has an international coordinator and some key personnel who attend most meetings. These people are thus able to create vast informal networks, which they use not only in the interests of the agency but also as means of gathering information and knowledge about EU developments for the ministry. The build-up of informal networks is a deliberate political strategy designed to compensate for the lack of formal representation in EU political institutions (Bue 2000). It is primarily an information-gathering tool with which to find out about potential amendatory EU directives and the proper way of implementing them. By the time proposals reach politicians in the

Council they may have undergone big changes without these necessarily being passed on to Norwegian officials through the EEA committee. Thus, it is important to have informal connections with different EU forums. Instead of being a “black box”, informal contacts within these institutions may be a channel for keeping the agency abreast of how proposals are developing.

Formal and informal networks are structurally very different. Formal networks have firm organizational frameworks and remain stable over time. Their meetings and agenda are often planned in advance and usually led by network administrations or an agency designated to arrange the meeting. Formal invitations are sent out ahead of the meeting and attendance is often restricted. Informal networks, by contrast, often resemble personal networks. In terms of membership, meetings, agenda and regularity they are unstable, and they often seem to consist of a mixture of employees from various agencies and formal network participants.

International Networks

We start out by reviewing the international networks in which the Norwegian Competition agency participates. These include the OECD (Organization for Economic Co-operation and Development) and the less prioritized network ICN (International Competition Network) established in 2001. Although network representatives have attended some ICN conferences involving national competition agencies and both EU and OECD representatives, international networks are above all an arena for developing countries and the USA, and the OECD is amongst the agency’s highest priority networks. One of the key activities is the annual round table conference on “best practice” in the field of competition policy. All the networks share some common objectives and key participants.

The power structures, agency affiliation and decision-making procedures in the OECD give its participants rather equal status. Cooperation takes the form of free multilateral collaboration, where decisions and resolutions depend on a consensus between member states. This soft structure presumably contributes to the autonomy

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and freedom of action felt by agency participants. Thus, they do not have to be as mindful of restricting their behaviour as in some European networks.

“When I participate in Brussels I have to be aware of my role as a representative of Norway, but when I participate in the competition committee in the OECD, I feel that I have much more autonomy and sovereignty as a competition director. In these forums I represent and speak on behalf of the Norwegian Competition Agency”
(Competition Agency director, 2007)

This sense of autonomy and loose ministerial control encourages participants to exchange new knowledge, information and ideas. While the absence of “hard law” in the OECD also reduces ministerial control, it should not be interpreted as an indication that the organization lacks steering capability. On the contrary, it possesses a wide array of effective measures to pursue *normative* and *cognitive* governance which is fuelled by the participation of experts and professional authorities (Marcussen 2005). It is able to play the role of an intermediary, especially given that the network is mostly used as a learning arena. This is very important for the organization’s normative governance, because we must presume that the contact between colleagues in different committees is instrumental in the spread of new ideas and knowledge (Sahlin-Anderson 2001). Nevertheless, the OECD cannot apply legal sanctions and possesses insufficient resources to create positive incentives for its members. Its steering mechanisms are therefore mainly limited to deliberation, persuasion and self-regulation (Marcussen 2005). This is evident in the committees, where normative and theoretical statements and recommendations are produced as persuasive arguments for bringing about unity and collaboration between participants. This type of governance is what Marcussen (2005:120) calls cognitive governance – in other words, the OECD articulates common values and goals in order to create a feeling of community amongst its members.

In terms of objectives and participants there is some overlap between transnational networks, and this also applies to international cooperation. Their formulated main objectives, namely the legal, cultural and political harmonization of the competition

area are strikingly similar; the difference is in their power they have to bring this about and the measures at their disposal.

European Networks

There are two main European networks in which Norwegian representatives participate – the ECN (*European Competition Network*) established in 2004, and the ECA (*European Competition Authority*) established in 2001. These networks have a rather restricted field of action, namely the strengthening of *European* integration and cooperation. Territorially they are limited by EU borders and legally they are bound by the EU and national competition rules. The dissimilarity between these networks is mainly accounted for by the exclusive features characterizing the ECN (Stenby 2009) which stands out as a rather independent supranational network (Wilks 2007). Indeed, it represents a unique institutional innovation and may be viewed as a core component of the European competition regime, rather like the Commission, the courts and national agencies. Since the ECN plays such an important part in the European and Norwegian competition regime, we will focus on it here.

Initially the ECN was not supposed to have such a special status. Its main purpose was to secure the uniform and coherent application of the new rules by establishing an arena for the exchange of information as well as by allocating cases to the best placed authority. The Commission, represented by DG Competition, was supposed to be the node of the network, with main responsibility for coordinating the work. From the outset collaboration had a strong professional and expert-oriented profile and much work has been done by expert committees consisting of agency representatives and participants from the Commission. These groups try to reach common investigational methods and rational organizational forms and to exchange knowledge and “best practices”. Because of its professional and expert orientation and its focus on national agencies, political representation was excluded (Wilks 2005).

For some time, however, the ECN has devoted more time and resources to formulating procedures and directives regulating the application of the law. This implies that central discussions about economic theories and the interpretation of rules

vital for the use and application of community law have become part of the network agenda. Through the defining procedures, sets of rules have been created valid not only for European competition law but also for national legislation. These stem from the incentives for harmonization introduced by the regulatory reform. The interpretation of the rules and applications produced in the ECN therefore creates normative arguments for legal harmonization amongst participating states (Wilks 2005, van Warden and Drahos 2002). It could be said that the regulatory reform has led to decentralized enforcement, while the ECN has helped to centralize regulation enforcement structures (Wilks 2005).

Despite the influence on national legislation, the ECN does not encompass “hard law” measures. It is a disciplined network, but it does remain nominally voluntary, and has no formal legal authority. It is constituted merely by a Note from the Commission “adopted” by the member states (Wilks 2007: 420).³ Like the OECD its power originates from cognitive and normative governance and the conception of interdependence as a means of creating a common European competition culture (Wilks 2007). It is clear, however, that the Commission plays a leading role as the node in the network, by arranging meetings and coordinating the work, by setting the agenda and by being responsible for the enforcement of community law. But the Commission is restricted by its lack of resources and national mandate, and cannot act contrary to major member state interests (Wilks 2007). If big member states like Germany, France or Great Britain oppose a proposal from the Commission, the latter is likely to back down from its demands. Nevertheless, the ECN does not seem to have been involved in any major disputes or disagreements (Kassim and Wright 2009a), despite the predictions of some of its opponents (Riley 2003, Wilks 2005, 2007). This may be linked to efforts to create a common competition culture amongst the national representatives participating in the network. The ECN brings together representatives from national agencies recently organized at arms length from their respective ministries and is thus seen as providing a basis for the maintenance of a

³ That said, the ECN was established by a Council Regulation and the bulk of tasks handled by the ECN can be traced back to “hard laws”. The core tasks are not policy development but enforcement, and the control measures at the Commission’s disposal essentially follow from Art 11 (6) in Council Regulation 1/2003.

common competition culture in Europe. Some of these experts derive their legitimacy through autonomy and by acting independently and the network may provide them with leeway to develop ideas and values together with colleagues from other agencies without being restricted by politicians or national ministries (Egeberg 2006a).

As a non-EU member the participation of the Norwegian Competition Authority in decentralized enforcement is limited and its role in this collaboration is thus restricted as well. Norwegian participants cannot share and exchange information dealing with investigation and enforcement between member states, but they do attend meetings concerned with policy development and the interpretation of legislation, and this collaboration may indeed be one of the agency's highest priorities. It is also informed with the incentives created by the new national competition law and with signals from politicians that Norway needs to adapt to European policy.

The ECA is the second European network in which Norwegian agency officials participate. In terms of territorial focus, main objectives and members it is quite similar to the ECN. But a closer look reveals that is very different in terms of agency priority, decision making and agency affiliation. For instance, the participation of the agency is not restricted, but this is probably because it is relatively insignificant in the development of European competition legislation. In terms of the exchange of information, best practice and knowledge, though, it has an important role to play. The ECA is thus an arena where representatives may develop common beliefs and a shared understanding of European competition culture.

It is interesting to observe that some informants characterized the ECA as an alternative network to ECN in terms of internal power structures. The Commission is a more equal partner to national agencies in the ECA than to the ECN. National agencies thus operate with more autonomy than in the ECN and may take the initiative in agenda setting and discussions.

Nordic Cooperation

Nordic cooperation is an integral part of the traditional close relationship between the Nordic countries and has been active since 1956. Like most networks it is a

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collaboration characterized by “soft law” and it creates no binding majoritarian decisions or forced resolutions. Its meetings, conferences and many smaller gatherings involve a wide spectrum of agency employees. Its participants include Norway, Sweden, Finland, Iceland, Denmark and newly formed competition agencies on Greenland and the Faeroes, and it thus encompasses both EU and EEA members (St. meld. nr 43 2004-2005). As shown below, this has had a major impact on the network’s profile. Two kinds of annual meetings are particularly important. One is the meeting of top managers of the competition agencies and their international coordinators. The other is a plenary conference of around 60 employees from the competition authorities. At these meetings reports are presented and discussed and competition policy projects are initiated.

Changes in the participating states’ affiliation with the EU have also had an impact on Nordic cooperation, affecting both the agency’s affiliation and the way collaboration is used. Bue (2000) points out that before Sweden and Finland joined the EU, the Nordic network could influence decision-making in Brussels and was an important arena for producing a coherent Nordic policy towards the EU. After the referendum in 1994, Norway and Iceland stood alone. This changed the terms of network cooperation for some time. Although this situation made it more difficult for Norwegian representatives to influence European policy, Nordic cooperation soon began to take on a new, more formalized shape. This happened particularly following the harmonization of competition legislation and the acceleration in the establishment of cross-border markets and trade. These factors offered opportunities and incentives for even closer collaboration, one of which resulted in an agreement on mutual enforcement, signed in 2001, which opened additional channels for the exchange of information and granted mutual access to confidential information. This agreement made enforcement of Nordic market regulation more effective and also forged closer contacts and cooperation between agency participants. As we will see later, this had an impact on the creation and development of informal networks.

Nordic cooperation is a high priority for the agency, for the agreement greatly expands the reach of Norwegian competition regulation and creates an arena for close collaboration between the Nordic countries. It also paves the way for developing important informal networks which may be used outside ordinary channels. The

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Nordic network is also an important feature of Norway’s relationship with the EU – member states offer information about European activities and even provide opportunities for lobbying in Brussels.

In Table 1 we summarize the characteristics of the different formal networks.

Table 1: Characteristics of different non-domestic networks of the Competition Authority

	OECD	ICN	ECA	ECN	Nordic
Agency attachment	No restrictions	No restrictions	No restrictions	Restricted participation	No restrictions
Decision making	Soft law	Soft law	Soft law	Soft Law Development of competition policy and interpretations of legislation	Soft law
Objectives	Harmonization Improve and create effective regulation	Harmonization Foreign help	Harmonization Improve and create effective regulation	Harmonize, develop, interpret and formulate legislation. Enforcement of community competition law	Harmonization Improve and create effective regulation Enforcement
Participants	National agencies Ministries Independent experts. EU Commission	National agencies International organizations	National agencies EU Commission	National agencies EU Commission	National agencies Ministries
Priority	High priority	Low priority	High priority	High priority	High priority

Source: Steby (2009), page 66.

Network participation

In this section we will take a closer look at network activities in order to illustrate why they represent a central arena in the harmonization, enforcement and formulation of European competition policy. By systemizing network activities and mapping the implications and expectations of participation, we can obtain a picture of the meaning and influence of networks for national competition policy and regulation. It is difficult to find out exactly how many transnational network meetings the Norwegian Competition Agency attends each year, but in 2006 its plan was to attend about 45 meetings of which 30 were in European Networks, 10 in international networks and 5 in Nordic networks.

We first address the control mechanisms by parent ministry and then distinguish four types of network activity which generate diverse expectations and implications. In the first category we have legal aspects, like interpretation, development and formulation of legislation. The second category encompasses mechanisms for creating mutual understanding, cooperation and learning as measures for establishing a shared European competition culture. The third is related to activities connected with the enforcement of competition law, while the fourth focuses on the various implications of potential role conflicts arising from participation in networks.

Control mechanisms by the parent ministry

Being part of a network of regulators makes it possible for national competition agencies to strengthen their autonomy from their parent ministries (Gilardi 2008). In general, economic regulators seem to enjoy more formal and actual autonomy from central executives than other regulatory agencies (Magetti 2009). The distance between the competition agency and the parent ministry might increase following the development of transnational networks (Solstad 2009).

The competition agency is, however, not totally free to participate or act autonomously in its own sphere when involved in transnational networks. This applies

Jerusalem Papers in Regulation & Governance

even though the agency's autonomy was extended through the national legal reform and by signals from politicians that competition regulation needed to become more independent. Thus the agency is still regulated by its political superior, the Ministry of Government Administration and Reform (Christensen and Lægreid 2008a) which uses various instruments according to which features and structures that characterize each network. This implies an individualized approach to and regulation of network participation.

The main regulation mechanisms require participants to submit reports on their activities, means of coordination and bounded mandates. The ministry normally bases its control of network activity on information gathered from reports delivered by network participants and plans for network activity issued by the agency. In line with a general ministerial instruction, the agency has an obligation to report activity that may need to be passed on to the ministry, which implies that the parent ministry actually executes control based on how participants and the agency define the general instruction. Thus there seems to be less regulation based on the ministry's initiative alone. Network activities concerning legal aspects have to be reported to the ministry. This is important because the ministry has to be well informed about this activity in order to be prepared for future binding directives from EU. Through their participation in the ECN, agency representatives are among the first Norwegian officials to be involved in policy development in this field.

The ministry will only seldom limit agency participants by giving them bounded mandates. Some network participants even claim that bounded mandates are imposed too rarely and that agency participants are given too much responsibility and leeway in presenting the Norwegian position (c.f. Jacobsson, Lægreid and Pedersen 2004). The ministry claims that agency representatives have good insights into the official Norwegian standpoint and that Norwegian competition policy largely concurs with the EU's so that disagreement seldom occurs.

Since competition policy often overlaps with other policy areas, it is sometimes necessary to coordinate viewpoints with other ministries or agencies. This may lead to competition assessments being rejected or suppressed. If representatives their assessment as the official Norwegian position, in the ECN, for instance, network colleagues will recognize this as a bounded mandate. This avoids damaging the

participant's reputation as an expert and demonstrates the close relationship and mutual understanding between professional colleagues.

The Norwegian Competition Authority seems to strongly espouse the "efficient competition approach" of the ECN (Solstad 2009). In contrast to some other national competition authorities, such as the Swedish, there seem to be fewer tensions with the parent ministry (Støle 2006, Jacobsen and Sundström 2006). It might be easier for outsiders not involved in scrutinizing individual cases to develop consensus-oriented policy communities. But if networks start to develop new substantial policies that diverge from those of the government in power it may become more difficult to exclude political participation in such network activities, which may result in stronger political control over the competition agency (Danielsen 2010).

Legal aspects

The ECN is the only formal network that covers legal aspects, such as the development, interpretation and formulation of legislative frameworks. Some informal networks also deal with legal aspects. This mainly involves exchanging information and experience about the enforcement and implementation of competition legislation.

The relocation of vital activities concerning legal aspects to transnational networks implies the involvement of foreign and non-governmental actors in the interpretation and implementation of national competition legislation. This shifting of juridicial responsibility, which may weaken the traditional governmental monopoly over the enforcement and interpretation of sets of rules, must be seen in the context of the national harmonization of competition legislation and the high priority assigned to participation in the ECN's legal discussions. When the new national law was implemented the lack of experience with enforcement of a rule system adapted to European legal practice produced a need for more information. Participation in the ECN was therefore vital for learning how to use a harmonized rule system.

Given Norway's relatively short experience with the new legislation, its participants tend to play a mainly reactive role, simply "downloading" EU regulatory

policy tools. Since the goal of participation is unitary enforcement, the knowledge and information possessed by the Commission and members states flow through the ECN down to the Norwegian agency.

When it comes to formulating proposals for new legislation, it may be possible for smaller agencies to exert some influence. The Norwegian Competition Agency also participates in significant policy-shaping activities such as those in the ECN, and may have more influence than is acknowledged through the formal-legal framework. In other words, rather than just passively adopting EU regulations it is also involved in formulating policy (Solstad 2009).

This pattern shows that professional considerations are of the essence and what matters most is often the quality of judgements and arguments (Stenby 2009, see also Wilks 2007). The cleavages in the ECN network seem to be based more on professional considerations than on territorial ones and cooperation within the ECN has not led to a strong Commission dominance but rather to a partnership among competition agencies operating on the basis of a shared professional understanding (Kassim and Wright 2009b). One reason for this may be that participants have managed to separate their two roles as national representatives and professional experts. Agency informants claim that they have exerted considerable influence on network activities concerning sectors in which the agency is known to possess expertise and experience, such as the energy, aviation and maritime sectors.

The establishment of a European competition culture

All the networks described in this paper engage in activities aimed at improving enforcement and investigation, and they also offer knowledge and experience. This is derived either from their own resources, like the independent experts in the OECD, or through enhanced interaction and cooperation between participants. The knowledge and information exchanged through this forum is based on common ideas or ideologies whose origins may be hard to identify and categorize, but the implications and expectations of which it may be possible to confirm. Since such a large number of networks are involved in these activities, we choose to focus on the different

Jerusalem Papers in Regulation & Governance

mechanisms used to spread these ideas and ideologies, including normative and cognitive governance (Marcussen 2005). While transnational networks lack the channels for enforcement associated with “hard law”, they still possess an impressive apparatus for influencing their participants. Such expert networks are made stronger by the fact that national governments to a large extent have organized agencies at arm’s length from political control. In many cases national governments may encourage these activities as a means of harmonizing national competition policy.

Normative governance deals with the diffusion of ideas and knowledge, often through the issuing of annual reports and reviews as in the OECD and the Nordic network. But normative governance may also take other forms, like non-mandatory rules, standards and guidelines issued to organize regulatory activities. This is typical for the activities in the ECN, where the Commission seeks to create legal certainty, i.e. unitary enforcement of community law. These procedures are non-binding, but there is a strong pressure for compliance, which may also have its origins in national governments stressing the need to further adapt to the EU. This is a fitting description of the Norwegian agency’s role, namely to keep up to date with EU competition policy, as a means of implementing EU regulations and harmonizing domestic legislation. Since this role is both accepted and even desired, ministerial control is weak and downloading of EU regulations is comprehensive.

Cognitive governance is not easy to comprehend. It is described as a method designed to create a mutual identity and a common understanding, myths and solidarity (Marcussen 2005: 107). It is expected to generate shared beliefs about the world and about the role and function of competition policy (Haas 1992, van Warden and Drahos 2002). Some of these beliefs have already made a mark on activity in networks, although the origins of cognitive governance are broader than just transnational networks. There is a shared idea that regulation should give priority to professional considerations over national preferences, which is why professional values play such an important role in most networks, both international and European. Network participants therefore seek approval via evidence-based knowledge; which in turn gives rise to proactive participation. This also makes it easier for smaller agencies to influence network activity, because the main asset is knowledge. At least this is the

case if knowledge and information are not obstructed by a wider political project, such as, for instance, the creation of a unitary common market.

The structures that allow a common competition culture are based not only on network activity itself. The environment also has a vital role to play. This includes, for instance the degree of autonomy and legitimacy felt by network participants and the fact that many of them meet in different arenas, so that close connections and shared values are easier to construct. Our description of network structures has shown that both objectives and participants overlap between one network and another. The ties between participants and the efforts made to encourage harmonization and convergence mean that networks represent a powerful arena in defining competition policy. Agency officials often seem to have a shared understanding of professional values, while conflicts based on territorial cleavages are more common in political institutions. Informants report that conflicts and disagreements about the development of competition policy and regulation seldom occur in networks. The vast informal network created by agency representatives may be an indication of the close ties and trust between participants.

Enforcement

Since Norway is excluded from decentralized enforcement within the EU, network activities concerning enforcement are limited. The only clear-cut example is to be found in the Nordic cooperation, where an agreement between the member states ensures investigational cooperation. In some instances the agency is also obliged to support the Commission in investigational matters concerning trade between Norway and member states. But this is only as an assisting function involving sharing information and knowledge. The agency has no independent enforcement power under these circumstances.

Although Norway is not involved in network activities linked to direct enforcement, it is clear that the aspects described above establish the framework for harmonizing domestic regulation. It is not easy to draw clear borderlines between the different aspects because they all influence how the agency regulates in practice.

Role conflicts

Network participation across levels of governance might procure role conflicts. Participants have a dual role as national representatives and spokesmen, on the one hand, but also in some cases as independent experts and professional advisers on the other. (Egeberg 2004, Martens 2008). Participants in transnational networks may also become involved in a regulatory regime outside national and constitutional control.

EEA membership obliges Norway to incorporate EU directives and procedures in national legislation, and the competition agency provides assistance and advice to the parent ministry in their implementation (Annual Report 2007: 34). This role, which it has assumed as a result of the national legislative reform and the articulated political objective of harmonized implementation, includes gathering information and knowledge either in the ECN or through informal networks with the Commission. Interestingly, informants have pointed out that this task creates a potential knowledge asymmetry between the ministry and agency, since the ministry is restricted from participation in ECN and only has access to ECN information and knowledge via the agency.

When the agency participates in the development, formulation and interpretation of legislation through the ECN, its role shifts towards that of a professional and expert body assisting the Commission. This is also connected with the organization of the network structure, which focuses on professional rather than political aspects. The objective is to ensure interaction based on empirically-acquired knowledge and not on national interests, conflicts and cleavages (Wilks 2005, 2007). Participants from national agencies organized at arm's length from their respective ministries thus have an opportunity to enhance and legitimize their roles as experts rather than as national representatives (Egeberg 2006a, Christensen and Lægreid 2001, 2004, 2006, 2007). In addition in interacting with the Commission national representatives are less nationally coordinated and are granted more autonomy from their superiors (Egeberg, Schaefer and Trondal 2006). In member countries this may be connected with opportunities for political influence through the EU council and Parliament, but in the case of Norway there is no such safety valve.

Analysis

The weakness of the rationalistic approach taken by the nationalization and Europeanization theses is their biased focus on formal institutions and static regulatory origins located at one level. Unlike the differentiation thesis, they look at the division and structuring of power and authority between levels of governance. When considering the various processes initiating the agency's participation in transnational networks they address explanatory variables that are downplayed in the differentiation thesis. Since this analysis embraces all levels and actors, it will overshadow irregular power structures, i.e. it will fail to address which actors and institutions have dominant positions. This view may create the mistaken impression that power is shared equally between participants in the development of competition policy. Nevertheless, this weakness may be an advantage when it comes to explaining the delegation of functions prior to the acceleration of agency participation in networks. In line with the differentiation thesis we find that the various levels of governance have played different roles and functions. Processes on the European level have had a considerable influence in activating domestic legislative reforms. The incentives created by the European level have led nation-states to initiate legislative reform autonomously. Via imitation and harmonization this has created a dependence on participation in transnational networks. Seen in these terms national autonomous decisions have enhanced a wide Europeanization of competition policy.

Network participation sustains and develops the Europeanization of competition regulation, and this harmonization goal is what determines the structure of the ECN, which cannot be characterized as an independent and autonomous network. Through various safety mechanisms and prerogatives the Commission is secured a position as the network node. This gives the Commission a superior position in European regulation and little space for Norwegian influence, especially since it is excluded from participation in EU political institutions.

The participation enhances legal harmonization, which is seldom challenged by ministerial control mechanisms. This does not necessarily mean that control is intentionally weak; it can also be seen as an indication of a high level of mutual trust between the ministry and the agency (Christensen and Lægveid 2008b). The lack of

control mechanisms can also be understood as a sign of a willingness to adapt to European influence, and this supports the nationalization thesis. Since participation in the ECN is obligatory for member states, but not for Norwegian agency representatives, adaption via Europeanization and harmonization of the competition policy can generally be seen as a deliberate choice – an expression of political will and professional preference.

In clarifying the location and source of competition regulation, we bring in elements from all three theses. When it comes to enforcing national competition law the agency is the institutional centre of gravity. But the interpretation and formulation of procedures vital for understanding and enforcing legislation have a European foundation. One could say that the agency regulates market behaviour but the Commission provides the foundation on which this regulation is based. Some elements in this system are captured by the Europeanization and nationalization thesis – for instance, the division of labour and tasks. But overall the differentiation thesis presents the best explanation of the location and source of competition regulation. This is mainly because it captures the dynamics and complex interaction between institutions and actors at various territorial and political levels. Although the division of authority may be biased, all institutions seem to matter in the task of regulating the domestic and European markets.

The differentiation thesis allows us to see the many faces of the regulatory regime as well as the various implications of participation depending on network type and structure. One cannot reduce participants' behaviour to simple characterizations valid across different types of networks. While the Europeanization and nationalization theses may offer a good description of the implications of participation in some networks or elements of their activities, they cannot give a comprehensive picture. For example, the legal and cultural impact of participation in the ECN may be explained by the Europeanization thesis, while the proactive role of gathering information and knowledge in preparation for potential directives and procedures is best explained by the nationalization thesis. However, it would be misleading to regard participants either as partial national representatives or as partial members of a European administration, for they can embrace both roles and in some arenas also cultivate their role as independent experts. By including international and Nordic cooperation as

Jerusalem Papers in Regulation & Governance

well we gain a better and more comprehensive insight into the various elements shaping competition regulation. Depending on the characteristics of a given network, network activity will form and influence views, norms, identities and values among participants. This multitude of tasks, arenas and roles is what allows agencies to play dual roles, sometimes leading to role conflicts among participants (Egeberg 2006a, Martens 2006, 2008). There is, however, a bias towards technical analyses and expertise rather than political considerations in the network activities. Scientific knowledge is at the core, but this knowledge is not only applied for instrumental decision making. It is also used to gain legitimacy (see Schrefler 2010).

The support for the theses along the three dimensions we address is summed up in Table 2. The table shows, first, that the differential thesis gets most support from our empirical findings. Second, it reveals that the two other hypotheses also have some explanatory power. The implication from this is that there is no one-factor explanation and we must regard the various explanations more as supplementary than as alternative. The conclusion is that the processes are not only nationally driven, Commission driven or networked, but compound-driven in a complex interaction (Egeberg and Trondal 2009).

Table 2: Support for the hypotheses

	Europeanization thesis	Nationalization thesis	Differential thesis
Description and scope	ECN as an instrument in the harmonization. ECN is dominated by European institutions and has low autonomy. <i>Some support</i>	Voluntary national participation in networks. Nationally initiated participation in ECN. <i>Some support</i>	Multitude of networks, informal and formal. National, European and transnational levels of governance. Independent international networks. <i>Some support</i>
Origin and organization of regulation	Regulatory constraints originate from ECN activity <i>Some support</i>	The institutional regulatory core is domestic <i>Some support</i>	Regulation is dynamic and developed in a multi-level governance system. <i>Strong support</i>
Implications	Legal harmonization. Weak domestic control mechanisms. Reactive regulatory agency. <i>Some support</i>	Network participation as a European information provider. Proactive regulatory agency. <i>Weak support</i>	Multiple roles. The competition regulation is performed through a varied network system. Participation to obtain information and knowledge. Reactive and proactive competition agency. <i>Strong support</i>
Overall support	<i>Some</i>	<i>Some</i>	<i>Strong</i>

Source: Stenby (2009), page 112

Conclusion

The core theme for this paper has been to identify the implications of integrating national regulatory institutions in a broader European and international context (Olsen 1997). By asking three questions we have looked at how integration through transnational networks leads to a Europeanization of domestic competition policy.

We have revealed that network participation is a complex interplay between domestic, European, and international developments. We see a compound political order and a mixture of different organizational forms (Olsen 2007). What is more, an additional layer of networks has developed above the territorial state (Cutrin and Egeberg 2009) and the competition agencies participating in these networks have been partly subordinated to a supranational level of governance. Nevertheless, national initiatives to harmonize regulation with that of the EU also play a significant role in understanding the participation of the Competition Agency in transnational networks.

Increased agency participation in transnational networks is attributed to two developments – EU regulatory reform and the reform of Norwegian competition legislation. The aim of these processes has been to promote cooperation and the unitary enforcement of competition laws. Common to these processes is not only a certain mutual dependency, but also the fact that they represent a response to increasing international economic integration. On the European level the challenge is the asymmetry between regulatory tasks increasing and the resources with which to perform them diminishing. The solution to this problem – decentralizing enforcement – has necessitated a consensus on the objectives and rules regulating the inner market, i.e. a harmonization of legislation and regulatory policy. Competition agency officials' participation in transnational networks display strong professional and expertise-oriented role conceptions, so that gaining acceptance for national priorities is contingent on justifying their positions in terms of professional considerations.

On the national level, reforms have been connected with European processes, with the experience of operating with two different sets of legislation, with international reform trends and with the challenges posed by cross-border markets and economic activity. Regulatory reform and decentralized enforcement have played an important role in the formulation of national competition law, both by establishing a context that has created incentives for national harmonization, and by producing a legal model to imitate. We have not registered any form of direct pressure from European institutions in the sense of obliging or committing Norway to harmonization. The changes therefore cannot only be explained in terms of pressure from a supranational, dominant institution such as the Commission but must instead be seen as a product of several actors and institutions pulling in the same direction, namely

towards policy convergence and increased network participation. This includes international and Nordic formal and informal networks. The EU represents a strong environmental influence on reform of the national legislative regime, but the decisions were nonetheless mainly national affairs handled by domestic politicians and can hence be described as an autonomous national adaptation.

What is the source of competition regulation and where is it located? A trustworthy and legitimate enforcement of national competition law implies information, knowledge and competences derived from economic analysis, markets and sets of rules. Political signals emanating from the harmonization goal and the implications of preparations for the new law necessitate a continued adaptation and adjustment to European legal developments. Participation in transnational networks is therefore vital in order to guarantee and advance the harmonization process initiated by domestic politicians. This implies that the framework that defines the enforcement and understanding of national legislation, based on legal and partially cultural aspects, has a transnational origin. Even if the centre of gravity of formal and actual enforcement is in national institutions, this activity will continuously be adapted and fine-tuned according to norms and principles originating from transnational networks.

In this paper we have described the various control mechanisms possessed and enforced by the domestic parent ministry. In this way we have sought to understand whether Europeanization and downloading EU regulatory policy have prompted resistance. Our findings conclude that it has not, because formal control is rare and often in the hands of network participants. The ministry seems to trust the experience and knowledge of the network participants and sees no need for further control. This does not necessarily mean a lack of competence; it may signal a willingness to adapt and be influenced. Adaptation to the EU is not only a question of enforcement, it also has to do with inspiration (Olsen 2003). The control is activated by a desire to oppose supranational influence. Downloading regulatory norms and principles from the EU is an adaptation to what is thought to be the most suitable regulatory regime, and therefore control is weak.

Our conclusion is that there seems to be a strong relationship between participation in transnational networks and the Europeanization of the Norwegian Competition Agency and the enforcement of competition law. This implies not only a

shift of actual enforcement and the location of policy development, it also makes the origins of regulatory activity in a wider sense hard to locate in certain institutions or levels of governance. The actors, decisions and institutions responsible for formulating competition policy are located at the interface between different levels of governance.

It is the political will towards Europeanization which frames how the agency utilizes and participates in transnational networks. The goal of harmonizing policy and legislation formulated by the national law reform has made the ECN the most important network in terms of its legal functions. This applies even though it leaves little space for national influence, unless national concerns coincide with expert and professional judgements. The proactive elements of ECN participation entail assisting in the implementation of legal directives and procedures in cooperation with the ministry. Even here we see an asymmetry in the form of informational cleavages between non-participants and ECN representatives. However, it is in the cultural field that we find the most proactive contribution, especially through international cooperation networks like the OECD, which are not framed or limited by the European enforcement regime. Political decisions favouring a legal harmonization have in fact depoliticized competition policy in favour of a juridical approach through epistemic communities in transnational networks (Haas 1992).

That said, our data base is from 2006/2007 and the international equilibrium on the regulatory scene is not necessarily stable and a policy consensus in this field cannot be assumed to be a priory (Danielsen 2010). The financial crisis of 2008/2009 revealed cross-sectoral failures in regulatory regimes, casting doubt on the claim of “high-quality regulation” (Lodge and Weigrich 2010), and led to an epistemic mobilization among the Competition Authorities and their related networks.

One implication of this development is a possible trend from Europeanization to transnationalization in this policy field. European competition culture can work as a catalyst towards global convergence (Wilks 2007) and international competition legislation. This will probably enhance competition networks linked to organizations such as the WTO.

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