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High competition-impeding fee risks reducing companies' willingness to facilitate investigations

Despite NCC's active participation to uncover the facts in the cartel investigation, the company has been ordered to pay a higher competition-impeding fee than previously set by the City Court. This is the implication of the announcement of the Swedish Market Court's decision on the asphalt case. NCC is critical of the decision, which it believes will reduce the willingness of companies to assist in similar situations in the future.

- We are surprised and disappointed by the Market Court raising the levy in the light of that we strongly contributed to enhance the Competition Authority's investigation. We believe that the contribution rate is too high and today's ruling means a significant strengthening of previous practice.

- This had been a golden opportunity for the Market Court to show that it is worth money to contribute. Our assessment is that the ruling threatens to reduce the company's willingness to facilitate investigations in similar situations, says Ulf Wallin, Senior Legal Advisor in the NCC group.

The decision, which entails that the competition-impeding fee to be paid by NCC is to be raised from SEK 150 million to SEK 200 million, runs completely contrary to NCC's claim for full exemption from competition-impeding damages. According to the Competition Act, companies that make a highly significant contribution to facilitating investigations into competition breaches should have the potential to be granted exemption from the fee.

The Market Court is the final instance for examining the degree of NCC's participation in what is referred to as the Asphalt Cartel. In July 2007, the Stockholm City Court ordered NCC to pay a competition-impeding fee of SEK 150 million. NCC appealed the verdict, which it felt did not take consideration of the company's active role in the investigation. In addition, it was felt that the magnitude of the fee was unreasonably high in view of the City Court's confirmation that there was no underlying general agreement to divide up all asphalt procurement projects from local and central governments; instead, this was a local phenomenon that emerged during certain individual years.

NCC made a highly significant contribution to facilitating the Swedish Competition Authority's investigation by having been the first party to plead guilty to the charges in some individual cases, in addition to submitting an extensive internal investigation to the Competition Authority, evidence (testimony) that facilitated the Competition Authority's investigation. NCC also cooperated actively with the Competition Authority throughout the

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investigation, and ensured that NCC employees stepped forward and witnessed, thus adding clarity to the investigation.

Since the inception of the cartel investigation in 2001, NCC has trained more than 2,800 executives and white collar employees in competition law. The training program was subsequently linked to the employee's employment agreement, with the implication that any infringements of the prevailing competition rules would lead to dismissal.

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All of NCC's press releases are available on www.ncc.se

NCC is one of the leading construction and property development companies in the Nordic region. NCC had in 2008 sales of fully SEK 57 billion, with 20,000 employees.

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