

Press release

Monopolies Commission sees limitations to municipal economic activities and criticises the trend towards “remunicipalisation”.

- The Monopolies Commission criticises excessive economic activities of the public sector and does not perceive any reasons for the general trend towards remunicipalisation
- The Monopolies Commission calls for transparency rules for municipal undertakings, which would allow, e.g., for better control of the level of fees and charges
- The Monopolies Commission considers more efficiency and competition to be possible in the disposal of household waste

The Monopolies Commission has presented its XXth Main Report under § 44(1) of the Act Against Restraints on Competition (ARC) today, which is entitled: **“A competitive order for the financial markets”**. It has analysed and evaluated the **municipal economic activities and the increasing trend towards remunicipalisation** in the report.

The present investigation was prompted by the efforts of many local authorities in the past few years, which have been labelled as **“remunicipalisation”** (*Rekommunalisierung*), to enlarge their own economic activities in many economic areas. In the 2000–2011 period, the share of the municipal undertakings’ turnover in the nominal gross domestic product grew by almost 60 percent.

Economic activities may be adequately pursued by municipal bodies if otherwise, an important public purpose cannot be fulfilled. That said, the Monopolies Commission has observed that municipal bodies are commercially active also beyond this limit. “The overexpansion of municipal economic activities can give rise to distortions of competition and lead to a shift of significant financial risk to society”, says the Monopolies Commission Chairman, Professor Daniel Zimmer. In addition, the level of fees and charges for the services of municipal undertakings is **not subject to any functioning efficiency control** at the moment, leading to additional charges for the public. Therefore, appropriate conditions must be established for better supervision by the public, the decision-makers and the supervisory authorities.

To that purpose, the Monopolies Commission suggests that the Federal States (*Bundesländer*) impose certain additional **transparency obligations** on the municipalities. A particular need exists that important characteristics of the municipal undertakings’ activities (e.g., profitability figures, the public purpose and the public value creation) be regularly published on the Internet, and that proceeds be reported in standardised form, in order to make the level of the fees of different municipalities comparable with each other.

In the area of **water supply**, the problem of insufficient control over the level of fees is particularly conspicuous. The proposed duty to report standardised proceeds could contribute to the reduction of fees. In the longer run, the regulation of drinking-water fees should be considered.

In the **telecommunications sector**, the municipalities are frequently active via the subsidiaries of the municipal utilities on various levels of the value-added chain. From a competition perspective, it is largely unobjectionable if municipal undertakings limit themselves to the construction and the operation of grid infrastructure. Fully integrated network operators and service providers are able to engage in practices distorting competition, which have to be avoided. Taking account of the subsidiarity principle, municipal activities should be limited also in the area of telecommunications where private undertakings are able to provide the services.

In the **energy sector**, a particularly large increase of municipal activities can be observed. That said, the room to manoeuvre is much smaller for the local authorities than frequently alleged, and the expansion of municipal activities in the energy economy is consequently detrimental to the citizens, particularly if such activities are pursued in competition with private undertakings.

In the area of **waste management**, there is currently much debate on the role of municipal and private service providers in various areas. As concerns the disposal of household waste, the tender procedures have been successful for long, particularly in rural areas, showing that private undertakings can provide the required services at least at the same high quality as the municipal utilities. Several arguments militate in favour of the assumption that an enlargement of the municipal tenders for household waste disposal would not only alleviate the burden on the general public, but also have ecological advantages. The transfer of the responsibility for package disposal on the manufacturers by way of the dual system, and the opening of the system to competition, have equally been a success. Presently, however, problems exist as regards sublicenses; the Monopolies Commission is still confident that these problems can be solved by announced changes in the law. The Monopolies Commission flatly rejects calls for an abolition of the current competitive system. In the Monopolies Commission's understanding, transferring responsibility for package disposal to the municipalities, as is currently being discussed, without the municipalities having to bear the associated cost, would lead to considerable cost increases. Due to recent statutory amendments, the Monopolies Commission is concerned by the increasing foreclosure of competition in the area of commercial waste collection, to the benefit of municipal monopolies. In this context, it is essential, in the Monopolies Commission's view, that the authority competent to prohibit commercial waste collection is fully independent from the public entity controlling the waste disposal utility.

The Monopolies Commission is a permanent, independent expert committee, which advises the German government and legislature in the areas of competition policy making, competition law and regulation. Its legal responsibilities encompass, among others, the preparation of a Main Report analysing the development of competition on a bi-annual basis. The Monopolies Commission has five Members appointed by the Federal President based on a proposal of the German government. Prof. Dr. Daniel Zimmer of Bonn University is the chairman of the Monopolies Commission.