



NÆRINGS- OG HANDELSDEPARTEMENTET

*Norwegian Ministry of Trade and Industry*

# The Government's Ownership Policy

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# 1

## FOREWORD BY THE MINISTER

State ownership is important. It ensures that we have control over our natural resources and that important companies remain based in Norway. The Government wishes to ensure strong public and national ownership. The state must be an active and predictable owner of important Norwegian companies, and it must take a long-term view. Through its ownership, the Government wishes to ensure that the state contributes to good, stable development of business and industry in Norway.

The state's exercise of its ownership shall be based on generally accepted principles for corporate governance and the division of roles set out in Norwegian company legislation. This document is therefore based on the current division of roles between companies' boards of directors and shareholders.

As a shareholder, the state shall contribute to the long-term growth and industrial development of the companies it owns. This requires an active ownership policy in which it is a clearly stated expectation that the boards of directors shall have high ambitions for their respective companies.

Among other things, the companies must focus on gender equality, research and development, the ability to restructure, ethics and environmental considerations. As a shareholder, the state expects the boards of directors to report on important matters with which the shareholders are concerned. It is the board of directors that is responsible for finding the right balance between the shareholders' expectations.

The Government's Ownership Policy is a new document that sets out the government's ownership policy, which is grounded in the Storting's consideration of White Paper no. 13 (2006 – 2007), cf. Recommendation no. 163 to the Storting (2006-2007).

Through this document, the Government wishes to contribute to greater transparency about state ownership. This will also help boards of directors in their work by clearly setting out the state's expectations and objectives as owner. It will underpin the financial development of the companies and contribute to society developing in the desired direction. The document deals with all of the state's direct shareholdings regardless of

which ministry is responsible for administering the interest. In other respects, the state's investment management largely takes place through the Government Pension Fund, which is managed by Norges Bank. See White Paper no. 1 (2006-2007) and Norges Bank's annual report for 2006<sup>1</sup> for more detailed information on the Government Pension Fund.

The Government will place strong emphasis on evaluating the boards' work in a good and systematic manner, and on putting together competent boards of directors that can work towards achieving the shareholders' objectives.

The Ministry of Trade and Industry publishes an ownership report<sup>2</sup> twice a year, which describes financial developments and important events in the companies and provides an overview of the boards of directors etc.



Dag Terje Andersen

<sup>1</sup> [www.norges-bank.no/kapitalforvaltning/](http://www.norges-bank.no/kapitalforvaltning/)

<sup>2</sup> [www.eierberetningen.nhd.no](http://www.eierberetningen.nhd.no)



## 2

# THE GOVERNMENT'S OBJECTIVES FOR STATE OWNERSHIP

## 2.1 Scope of direct ownership

The state has extensive direct ownership of Norwegian enterprises. The state's direct ownership ranges from holdings in Norway's biggest listed companies to small wholly-owned companies with purely sectoral policy objectives.

### The state's shareholding and the ministry to which the company is affiliated:

Company name	Shareholding	Ministry*
Kompetansesenteret for IT i Helse-og sosialsektoren AS	80,5	AID/HOD
Industritjeneste AS	53,0	AID/JD
Statskonsult AS	100,0	FAD
Secora AS	100,0	FKD
AS Vinmonopolet	100,0	HOD
Helse Midt-Norge RHF	100,0	HOD
Helse Nord RHF	100,0	HOD
Helse Sør RHF	100,0	HOD
Helse Vest RHF	100,0	HOD
Helse Øst RHF	100,0	HOD
Norsk Eiendomsinformasjon AS	100,0	JD
Norsk Samfunnsvitenskapelige Datatjeneste AS	100,0	KD
Simula Research Laboratory AS	80,0	KD
UNINETT AS	100,0	KD
Universitetssenteret på Svalbard AS	100,0	KD
Norsk Rikskringkasting AS	100,0	KKD
Norsk Tipping AS	100,0	KKD
Kommunalbanken AS	80,0	KRD
Statskog SF	100,0	LMD
Veterinærmedisinsk Oppdragscenter AS	51,0	LMD
Argentum Fondsinvesteringer AS	100,0	NHD
BaneTele AS	50,0	NHD
Bjørnøen AS	100,0	NHD
Cermaq ASA	43,5	NHD
DnB NOR ASA	34,0	NHD
Eksportfinans AS	15,0	NHD
Electronic Chart Centre AS	100,0	NHD
Entra Eiendom AS	100,0	NHD

NHD: Ministry of Trade and Industry

OED: Ministry of Petroleum and Energy

SD: Ministry of Transport and Communications

HOD: Ministry of Health and Care Services

LMD: Ministry of Agriculture and Food

KD: Ministry of Education and Research

JD: Ministry of Justice and the Police

FKD: Ministry of Fisheries and Coastal Affairs

UD: Ministry of Foreign Affairs

KRD: Ministry of Local Government and Regional Development

KKD: Ministry of Culture and Church Affairs

FAD: Ministry of Government

Administration and Reform

AID: Ministry of Labour and Social Inclusion

Flytoget AS	100,0	NHD
Innovasjon Norge	100,0	NHD
Kings Bay AS	100,0	NHD
Kongsberg Gruppen ASA	50,0	NHD
Mesta AS	100,0	NHD
Nammo AS	50,0	NHD
Norsk Hydro ASA	43,8	NHD
SAS AB	14,3	NHD
SIVA SF	100,0	NHD
Statkraft SF	100,0	NHD
Store Norske Spitsbergen Kullkompani AS	99,9	NHD
Telenor ASA	54,0	NHD
Venturefondet AS	100,0	NHD
Yara International ASA	36,2	NHD
Enova SF	100,0	OED
Gassco AS	100,0	OED
Petoro AS	100,0	OED
Statnett SF	100,0	OED
Statoil ASA	70,9	OED
Avinor AS	100,0	SD
Baneservice AS	100,0	SD
NSB AS	100,0	SD
Posten Norge AS	100,0	SD

## 2.2 The Soria Moria declaration

The Government's political platform, the Soria Moria declaration, states, among other things, the following:

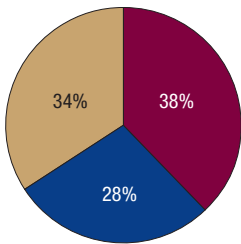
"Diversified ownership is a strength for Norwegian business and industry in terms of access to capital and expertise. Diversified ownership is necessary, both private and public ownership and national and international ownership. Norwegian ownership is an important means of ensuring that companies have their head offices and research activities in Norway. Foreign ownership, on the other hand, helps to ensure development and build competence."

The state is a major owner of Norwegian business and industry. State ownership ensures control of our national resources and ensures revenues that can be used for the good of society as a whole. State ownership can be decisive in ensuring Norwegian ownership and a base in Norway for key enterprises in the years ahead. Public ownership is an

## 2

important means of achieving important political objectives relating to regional policy, transport policy, cultural policy and health policy.

### 2.3 A national base



*The Norwegian state owns 34 % of the shares in DnB NOR ASA. Of the remaining shares, 38 % are owned by foreign shareholders and 28 % by Norwegian private investors.*

The state wishes to ensure that important companies and key functions in society remain based in Norway. The fact that large companies have head office functions in Norway is important in terms of value creation. That is why this is an important political issue in Norway and many other countries. If strategically important companies have their head offices in Norway, this also contributes to securing and developing specialised industrial and financial expertise as well as management expertise in general.

The cooperation between head offices and various national institutions within a sector is of great importance in terms of economic development. A head office will normally have considerable strategic competence in order to be able to manage a company's affairs in an adequate manner. Norwegian-based decision-making and management competence is also of great importance to the supply industry, and thus also in terms of national value creation and jobs. Through its ownership, the state wishes to contribute to head offices in areas of national strategic importance remaining in Norway.

An ownership interest of more than a third of a company is necessary to ensure a Norwegian base. The size of the interest the state wishes to own in a company must also be seen in light of the importance of the company to the Norwegian economy and value creation, and the ownership interest will in many cases be much higher than a third.

### 2.4 Ensuring national ownership and control of, and revenues from our natural resources

The state wishes to ensure national ownership and control of the country's extensive natural resources, particularly in the energy sector. Partial privatisation of these companies is therefore out of the question.

State ownership of Statkraft (hydroelectric power) and Statskog (forestry), among others, is an instrument for ensuring that such resources are exploited for the common good. The state wishes to retain Statskog and Statkraft as wholly state-owned companies.

The state's ownership of energy companies is an important part of the Government's policy for ensuring as far as possible that the revenues generated by natural resources benefit



*Kvilldal machine,  
owned by Statkraft SF.*



© Statkraft SF

society as a whole. As a result of increasing energy prices, companies such as Norsk Hydro and Statoil have increased strongly in value and provided good returns in recent years. The same applies to Statkraft. Extensive state ownership in the energy sector has thus provided extra revenues for the public purse through the distribution of large dividends in recent years. This shows that state ownership can be an important supplement to the tax system that provides income for society as a whole.

## 2.5 Securing other important political objectives

Public ownership enables socio-economically profitable development of infrastructure that by its nature is a natural monopoly, i.e. that one company can produce more efficiently within a defined geographical area than several companies can. Through state ownership, the state wishes to ensure that Norway has well developed infrastructure as regards roads, railways, airports and the national transmission grid for electric power.

The authorities have a particular responsibility for ensuring that society has a rich and diverse cultural sector in areas such as the theatre, opera etc. Ownership of the Norwegian broadcasting corporation, NRK, contributes to cultural diversity. The state wishes to utilise its ownership in the cultural sector to meet society's needs for quality, diversity and innovation.

State ownership of the regional health enterprises and the organisation of the specialist health service as health trusts allows for overall management and good utilisation of resources with a view to maintaining and further developing good services for the population as a whole.

# 3

## THE STATE'S EXPECTATIONS OF THE COMPANIES

### 3.1 Important sector-independent considerations that companies must take into account

One of the main reasons why the state wishes to remain owner of many of the companies is their importance to Norway. The state's long-term objectives for the state's ownership mean that the companies' boards of directors must take due account of considerations such as a good environment, restructuring, diversity, ethics and research and development in order to promote development in the long term. Displaying active social responsibility means combining financial and ethical considerations in all areas of operation, ranging from a company's choice of partners to its investment in, for example, employees' working conditions, locally and globally. Socially responsible management of companies means that companies must endeavour to demonstrate a consistently good practice towards all its stakeholders. Work on social responsibility is not, and should not be seen as, a distinct element unrelated to business strategy and business development.

In the following, matters are described which the state as owner will concern itself with in its owner dialogue with the companies. These matters apply to all the companies, irrespective of the goal for the state's ownership of the individual company. These are matters which it is expected that the boards of directors will take into consideration in their deliberations and which are intended to underpin a market-based rate of return and good, sustainable industrial development. The boards must find the right balance between the different considerations in a manner that furthers the interests of the shareholders as a whole.

#### 3.1.1 Restructuring

As owner, the state expects companies that operate in Norway to act responsibly and to take a long-term view in connection with restructuring processes. Restructuring is particularly demanding in vulnerable local communities with few alternative workplaces. In order to avoid insecurity in connection with such demanding change processes, it is important to maintain a high degree of openness about why restructuring is necessary, and to include owners, employees and the local community in a constructive dialogue at an early stage, both with respect to the need for change, the timeframe and measures that may be taken. If it is clear that restructuring is necessary, it is important that all parties endeavour to act in

as constructive a manner as possible with a view to ensuring an orderly process and investigating the possibilities for establishing alternative businesses.

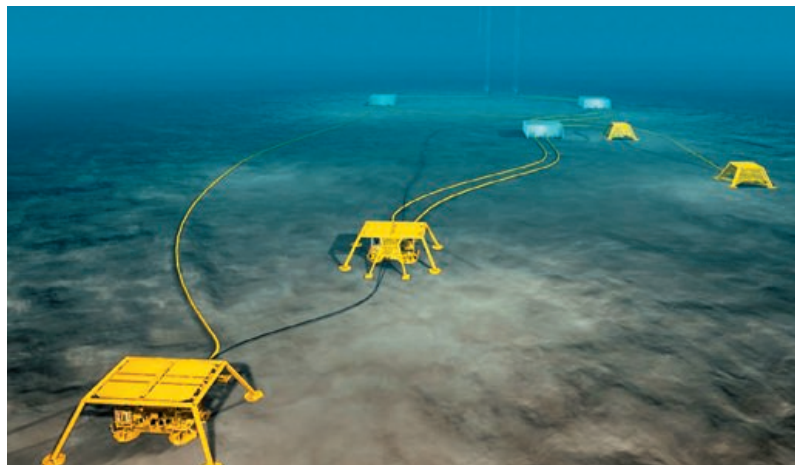
As owner, the state participates in these processes on an equal footing with other stakeholders and responsible owners. The Government will be concerned, among other things, with new profitable investments which can ensure jobs in Norway in future. Companies in which the state is the dominant owner are expected in particular to behave responsibly and as active co-participants in restructuring processes in vulnerable local communities.

The state also has a business and industry policy and regional policy role to play in such restructuring processes. In industrial communities with a single cornerstone employer, restructuring programmes should be implemented in order to promote development instead of merely closing down operations. In principle, the challenges associated with restructuring should be solved within the framework of existing policy instruments, which include Innovation Norway, employment market measures, the county authorities and municipalities. Extraordinary measures by the state are also possible in special cases on the basis of specific criteria, cf. White Paper no. 21 (2005-2006) On regional policy. See also, in this context, the Government's measures in the event of company closures, which will be submitted to the Storting for separate consideration.

### 3.1.2 Research, development and competence-building

The business community should have high ambitions with respect to investing in research and development (R&D), and companies in which the state has an ownership interest shall contribute to increasing private participation in research and development in Norway. The

*Oilfield Vigdis, owned by Statoil ASA.*



© Statoil ASA

Government takes the view that industry- and technology companies where the state holds a substantial shareholding should establish a strategy for increased research and development.

Business and industry's competitiveness depends on companies being capable of utilising and further developing new knowledge and new technological and organisational solutions. A more knowledge-based economy requires that companies increase their research efforts, and that this is supported by the availability of good policy instruments and good infrastructure consisting of universities, university colleges and research institutes.

As owner, the state expects commercial companies in which the state has an ownership interest to run their businesses on the basis of what will best serve the company and its shareholders in a long-term perspective. Businesses have good access to the extensive system of policy instruments which the research policy has already generated. The Government has high ambitions for the business community's research and development efforts, and it expects companies to have a conscious policy for their own R&D efforts. The boards of directors should work actively and ambitiously to develop these activities and to take steps to facilitate the commercialisation of research within the company and through spin-off enterprises. The companies should also have a conscious policy for communicating their own research results and commercialising results from other research environments and companies through collaboration.

The state is concerned that companies have a conscious policy of investing sufficient resources in building competence among employees and that companies consider taking steps to facilitate apprentice and trainee schemes as an important recruitment method.

### 3.1.3 The environment

Long-term value creation requires the efficient use of resources and the minimisation of negative impacts on the natural environment. This means that a company's work on

*Statoil has introduced E85 on the Norwegian market.*



© Statoil ASA, Photo: Heike Junge

environmental matters must be systematic and involve the company's entire value chain. The company must make active efforts to heighten awareness and involve the organisation and individuals in environmental issues. Customers, partners and suppliers must cooperate on environmental and safety issues in order to arrive at the most environmentally-friendly solutions possible. Product development, production, distribution and afteruse of the company's products must be adapted so that they further responsible long-term societal development and result in the minimum of negative environmental impact.

Responsibility must be clearly assigned for the objectives for and implementation and evaluation of environmental efforts. Systems and control and reporting procedures must be continually refined to ensure that the work is carried out in a satisfactory manner. As owner, the state wishes state-owned companies to be at the forefront as regards environmental measures in their respective industries.

### **3.1.4 Health, safety and the working environment**

It is important that the boards of directors follow up work on health, safety and the working environment and that this is done in a systematic and adequate manner. It is an important principle that such work should be preventive.

An increasing number of employees in companies in which the state has an ownership interest are employed outside Norway. It must be a matter of course that companies' efforts in this content also include their operations abroad.

The best traditions for cooperation with employees and their unions must be included when companies operate abroad. This will be a positive contribution to the implementation of international labour standards, participation by trade unions and good industrial relations in companies' operations in other countries. As owner, the state requires companies in which the state has an ownership interest to be at the forefront with respect to HSE work.

### **3.1.5 Ethics**

Both the Norwegian Code of Practice for Corporate Governance and the OECD guidelines for corporate governance in state-owned enterprises stipulate that the board of directors should adopt ethical guidelines for the company. The state expects all companies in which it has an ownership interest, which have not already done so, to draw up a set of corporate values and ethical guidelines. They shall be actively implemented in the company. When formulating ethical guidelines for the business, companies should, among other things, assess the considerations on which the Government Pension Fund's ethical guidelines are based. As is the case for the Government Pension Fund's guidelines, such ethical guidelines should be in accordance with the UN's Global Compact<sup>3</sup> and the

<sup>3</sup> [www.unglobalcompact.org/](http://www.unglobalcompact.org/)

<sup>4</sup> [www.oecd.org/daf/investment/guidelines](http://www.oecd.org/daf/investment/guidelines)

OECD's guidelines for multinational companies<sup>4</sup>. In addition, the guidelines should be in accordance with the OECD's guidelines for corporate governance in enterprises in which the state has an ownership interest<sup>5</sup>. The government expects that the companies clearly communicates that buying sexual services is irreconcilable with the internal codes of conduct.

### **3.1.6 Combating corruption**

Stringent requirements relating to transparency and public disclosure are an effective means of combating corruption.

In Norway, the Public Administration Act and the Freedom of Information Act grant the parties involved right of access to information about the decisions made by the public administration. Increased transparency in business and industry will also help to prevent wrong and ethically dubious decisions. Companies should therefore be open about dilemmas relating to corruption, conflicts of interest and problems of partiality.

### **3.1.7 Gender equality**

Genuine open competition for positions in society furthers both fairness and economic efficiency. Women now account for around half of those in employment. Norway is among the leading nations in the world as regards gender equality in the employment market, but, particularly as regards positions as leading executives in business and industry, it is still the case that men are in the clear majority. It is wasteful and poor management of society's resources if the expertise and capacity that women can contribute to companies and society is not made better use of.

The Government ensured that a requirement for representation by both genders on boards of directors in public limited companies entered into force on 1 January 2006, cf. the Public Limited Liability Companies Act section 6-11 a). For companies that were formed and registered prior to that date, a transitional period of two years applies until 1 January 2008.

The recruitment of women to leading positions in companies is a task for the companies' boards and management. This follows from the division of roles set out in the Limited Liability Companies Act. A conscious development and recruitment policy directed at lower levels of the organisation must be practised by companies in order to ensure that there are more women to choose from when people are to be appointed to the top positions. It is an important management responsibility to make such conscious endeavours within an organisation. In its administration of its ownership, the Government will follow up the boards of directors to ensure that they are active in this area.

<sup>5</sup> [www.oecd.org](http://www.oecd.org) (English version) and [www.nhd.no](http://www.nhd.no) (Norwegian translation)

### **3.1.8 Integration and career opportunities for other groups**

The Government is concerned that Norwegian companies adopt a conscious approach to the recruitment of persons from minority backgrounds. Several companies in which the state has ownership interests operate in many different countries. The companies should also emphasise cultural knowledge in their recruitment policies.

Companies should participate actively in attitude-shaping measures that ensure that immigrants from non-Western backgrounds are admitted to and offered opportunities in the employment market that are in accordance with their qualifications.

In the same manner, the state also expects Norwegian companies to practice an active and conscious recruitment policy that also provides employment opportunities for qualified elderly persons and persons with impaired functional abilities.

### **3.1.9 Civil protection**

On a par with other private enterprises, companies in which the state has an ownership interest are required to take steps to protect their own operations, employees and the local community against accidents. Guidelines in this connection are drawn up and followed up by the appropriate authorities in each sector. NOU 2006:6 Når sikkerheten er viktigst (When safety is most important) describes the principles for a good safety culture in enterprises that are responsible for critical infrastructure and critical functions in society.

## **3.2 Division into categories**

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Better information about the objectives for state ownership can form the basis for more active, value-creating ownership. Among other things, the division of the state's ownership interests into categories will make it easier to formulate expectations and measure a company's performance. It will also be easier for companies to define their main responsibilities, and to know when the owner's involvement is required. If the state is clear on what the objective for its ownership is, it will be easier to evaluate afterwards whether the capital invested has been utilised efficiently. Unclear objectives can also lead to the capital markets believing that the state has other objectives than it actually does, which in turn can have a negative effect on the value of the company's shares. Categorisation of ownership by the objective for the ownership is an expedient approach to this question. In White paper no. 13 (2006-2007) An active and long-term ownership, the state has divided its ownership into the following categories depending on the objective for its ownership:

- 1 Companies with commercial objectives
- 2 Companies with commercial objectives and ensuring head office functions in Norway
- 3 Companies with commercial objectives and other specific, defined objectives
- 4 Companies with sectoral policy objectives

Companies intended to ensure the achievement of sectoral policy objectives and important public objectives will, in addition to the sectoral policy objectives, also have commercial objectives, but the degree of commercial orientation will vary considerably. The state stipulates requirements for the companies in order to ensure that sectoral policy objectives are achieved as efficiently as possible.

### **3.3 Objectives for the ownership of the individual companies**

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A review of the Government's objectives for its ownership of a number of different companies follows below.

#### **3.3.1 Companies with commercial objectives**

##### **Argentum Fondsinvesteringer AS**

The market for unlisted shares is less highly developed in Norway than it is in other countries such as Sweden, the USA and the UK. Through its ownership of Argentum, the Government wishes to ensure that companies in the development phase have long-term access to ownership capital on market terms. Through investments in other funds, Argentum contributes to good collaboration between private and public capital and to the further development and professionalisation of the venture capital sector. The Government will maintain 100 per cent of its ownership interest in Argentum.

##### **Baneservice AS**

Baneservice AS was formed as part of the efforts to increase efficiency in the rail sector in Norway. In parallel with the decision to hive off Baneservice (track maintenance) from Jernbaneverket (the Norwegian National Rail Administration), a plan was adopted to increase the exposure to competition of the National Rail Administration's production and service operations. In autumn 2005, the process of exposing the National Rail Administration's services to competition was halted, cf. Proposition no. 1 to the Storting, Supplement no. 1 (2005 – 2006). The Government is very critical of the manner in which the exposure to competition and downsizing of the National Rail Administration took place. The rate of change, the approach adopted and the fact that all employees in the National Rail Administration were offered severance packages at the same time resulted in the loss of valuable expertise, greater expenses than necessary for the public purse



and unnecessary insecurity for employees and players in and around the National Rail Administration. In the Government's view, the National Rail Administration should continue as an integrated undertaking in which the Administration continues to carry out substantial operating and maintenance tasks itself.

The Government does believe, however, that it is desirable to contribute to a well-functioning market, and the purpose of state ownership in this context is to ensure that Baneservice becomes a profitable company operating in competition with other players. State ownership will be reconsidered when a well-functioning market has been developed for these services.

### **Eksportfinans ASA**

The purpose of state ownership of Eksportfinans ASA is to ensure that Norwegian export enterprises obtain competitive terms compared with their foreign competitors. Stable national affiliation may be a factor that influences the company's creditworthiness. State part-ownership contributes to important expert environments remaining in Norway and to ensuring that small and medium-sized enterprises are also offered export financing on competitive terms.

Through its subsidiary, Kommunekreditt, Eksportfinans ASA plays an important role in relation to the municipal sector. The Government is concerned with ensuring that the municipal sector obtains good terms and conditions for its loans, thus keeping loan costs down. Competition between different players in the market is seen as an important factor in achieving this goal. The subsidiary Kommunekreditt contributes to a well-functioning lending market for the municipal sector. Combined with the requirement for a commercial return on its invested capital, the state's ownership of both Eksportfinans AS and Kommunalbanken is wholly or partly motivated by a desire to contribute to effective competition in the market for offering loans to the municipal sector on good terms. The same emphasis is placed on the sectoral policy motives as on the financial motives in the state's exercise of its ownership irrespective of the fact that they are placed in two different categories in this context.

Over time, the state should achieve a satisfactory return on its invested capital in the form of dividend and an increase in the value of its shares. It is important, at the same time, to ensure that Eksportfinans ASA maintains as high creditworthiness as possible. The Government will maintain the state's ownership interest.

### **Entra Eiendom AS**

The main objective of Entra Eiendom is to meet the state's need for premises. Through the establishment of Entra Eiendom, the state wished to ensure more efficient development

*The national Library, developed by Entra Eiendom.*



© Entra Eiendom AS

and management of state property located in markets exposed to competition. Provided that the main objective is achieved, the Government does not believe it is necessary to impose concrete limits on how much property Entra Eiendom lets to others. The company's core expertise is oriented towards the public sector. State clients will therefore be a high-priority target group for Entra Eiendom.

Ordinary office premises account for the lion's share of the property let by Entra (88 per cent). Educational premises account for approximately 10 per cent of the space let. State ownership ensures a return and revenues for society as a whole and contributes to good development in Entra Eiendom.

### **Flytoget AS**

The task of Flytoget (the airport express rail link) is to contribute to a high proportion of public transport use among travellers to and from Oslo Airport Gardermoen. This is beneficial in both socio-economic and environmental terms. Further development of the services offered by Flytoget shall take place within a normal commercial framework. The Government believes that long-term state ownership of Flytoget contributes to good commercial development of the company and a high level of public transport use. State ownership will also ensure a return and revenues for society as a whole.

The government has no plans to change in its ownership interest in Flytoget.

### **Mesta AS**

The formation of Mesta AS meant the establishment of a clear organisational distinction between the official administrative tasks of the National Public Roads Administration and its production activities. At the same time, the principle of broader-based competition was introduced in connection with the running and maintenance of the public roads network in Norway. Through its ownership of Mesta AS, the state wishes to contribute to developing

the company into an efficient player in the market for road building and maintenance. The Government does not envisage any changes in its ownership.

### **SAS AB**

The state owns 14.3 per cent of the shares in SAS. Together with the Swedish and Danish state, the Norwegian state's shareholding means that a majority of the shares in the company are in public ownership. This ensures that strategic decisions are made in Scandinavia.

The Swedish, Danish and Norwegian authorities have traditionally emphasised acting in a concerted manner in connection with important decisions by the company's owners. There has been an understanding between the governments of the three countries that the other governments should be notified if one of the three countries has plans to change its ownership interest. White Paper no. 26 (1996 – 1997) stated that the three state owners agreed that they wished to maintain this understanding. This is also clear from Proposition no. 72 to the Storting (2000 – 2001), which states that, if one of the states has any plans to change its ownership interest, the other states will be informed in advance.

The Government's policy is that, also in future, the Norwegian state should act in a coordinated manner together with the Danish and Swedish states in connection with important decisions to be taken by the owners of the company. The Government has no plans at present of changing its ownership interest in SAS AB.

### **Venturefondet AS**

The considerations that previously formed the basis for the establishment of Venturefondet AS are now attended to through new fund solutions. Today, Venturefondet has no employees and relatively small holdings of units and capital. The Government will therefore continue the process of winding up the fund which has been ongoing for the past five years. The capital will be returned to the treasury as soon as the fund's investments have been wound up.

## **3.3.2 Companies with commercial objectives and the objectives of ensuring head office functions in Norway**

### **Cermaq ASA**

The purpose of the state's shareholding in Cermaq ASA is to ensure Norwegian ownership of a forward-looking aquaculture industry. The Storting has decided that the company's head office shall be situated in Norway, cf. Proposition no. 4 to the Storting for 2000 – 2001, cf. Recommendation no. 27 to the Storting for 2000 – 2001.

As owner, the state's objective is that Cermaq should be an important player in the development of the fish-farming industry in Norway. The Government has no plans to sell shares in the company.

#### **DnB NOR ASA**

The purpose of the state's ownership interest in DnB NOR ASA is to ensure that the group has its head office in Norway and that the company acts as a partner for Norwegian companies in Norway and in the export market. This provides business and industry with access to a large and highly competent Norwegian-based financial group. The Government intends to maintain the state's ownership interest of 34 per cent in DnB NOR as the Storting assumed in Recommendation no. 212 to the Storting (2002 – 2003).

#### **Kongsberg Gruppen ASA**

Kongsberg Gruppen ASA represents an important and very central expert environment specialising in advanced maritime electronics and defence technology. As the largest shareholder, the state is concerned with further developing Norwegian knowledge-based industry and with ensuring that the company maintains its ties to Norway on the basis of the expertise that has been built up in Kongsberg. The state thereby wishes to secure and further develop the financial value of the group and to achieve a return on the capital invested.

The Government will maintain the state's ownership interest in Kongsberg Gruppen ASA.

#### **Nammo AS**

Nammo is a key Norwegian defence company and an important player attached to the expert environment in Raufoss. In future, Nammo will face major challenges in a European defence industry characterised by the many mergers that are taking place. The Government emphasises taking a long-term view of its ownership with a view to contributing to good industrial development of the group and ensuring the continued existence of head office functions and other operations in Raufoss.

The Government wishes to retain the state's ownership interest in Nammo.

#### **Norsk Hydro ASA**

Norsk Hydro ASA is one of Norway's biggest industrial companies.

The Government believes that the state should have a large ownership interest in Norsk Hydro ASA in order to secure and safeguard industrial expertise, processing, jobs and the management of extensive Norwegian natural resources. It is also important to retain head office and research and development functions in Norway.

When the state's shareholding was reduced to 43.82 per cent in 1999 in connection with Hydro's acquisition of Saga, the Government was authorised to acquire shares in order to restore its holding in Norsk Hydro ASA to 51 per cent. See the Storting's decision of 17 June 1999, cf. Proposition no. 81 and Recommendation no. 234 to the Storting for 1998 – 1999.

On 18 December 2006, the boards of directors of Statoil ASA and Norsk Hydro ASA announced that they had agreed to recommend a merger of Hydro's petroleum activities with Statoil ASA to their respective shareholders. The shareholders will make a decision on the merger in summer 2007.

Hydro's aluminium business has been strengthened in recent years. In the Government's view, the hiving off of the company's oil and gas activities will not weaken Hydro's ability to implement its strategies for its aluminium business. The company will be a major player in the aluminium market.

The Government will maintain the state's ownership interest in Norsk Hydro ASA after the hiving off of its petroleum activities and thereby contribute to maintaining the stable ownership that has characterised the company.

### **Statoil ASA**

Statoil ASA was formed as a wholly state-owned oil company in 1972. In 2001, it was decided to carry out a broad-based restructuring of the state's ownership of the oil and gas deposits on the Norwegian Continental Shelf, and it was decided that Statoil ASA was to be listed on the Oslo Stock Exchange and the New York Stock Exchange.

The Government believes that the state should have a large ownership interest in Statoil ASA in order to secure and safeguard industrial expertise, jobs and the management of extensive Norwegian natural resources. It is also important to retain head office and research and development functions in Norway. In addition, the sales instruction requires the state to be the majority owner in Statoil ASA.

On 18 December 2006, the boards of directors of Statoil ASA and Norsk Hydro ASA announced that they had agreed to recommend a merger of Statoil ASA with Hydro's petroleum activities to their respective shareholders. The shareholders will make a decision on the proposal at extraordinary general meetings of the companies in July 2007. Pursuant to the agreed exchange ratio, the state's shareholding in the merged company will be 62.5 per cent. The merged company will be called StatoilHydro ASA. See also Proposition no. 60 to the Storting (2006-2007) The merger of Statoil with Hydro's petroleum activities.

In accordance with the Storting's decision of 2001 concerning a state shareholding of minimum 67 per cent in Statoil and White Paper no. 13 (2006-2007) An active and long-term ownership, the Government plans over time to increase the state's shareholding in the merged company from 62.5 per cent to 67 per cent. A shareholding of 67 per cent will contribute to ensuring that the intentions behind the decision to list Statoil on the stock exchange are also fulfilled for the merged company.

### **Telenor ASA**

Telenor operates in a global market for telecommunications services. The main objective of state ownership of Telenor is to contribute to good, long-term industrial development of the company. Telenor is a key company in relation to the further development of Norwegian ICT expertise and jobs. The Government is concerned with ensuring that further technological and industrial development of the company takes place in Norway. The Government wishes to ensure that ownership of the company is rooted in Norway and that its head office functions remain here.

The Government will maintain the state's ownership interest in Telenor ASA.

### **Yara International ASA**

Yara International is the world leader in its market. The company represents an important industry in Norway, and the Government is concerned with ensuring that head office functions and production and research and development activities remain in Norway. The Government will maintain the state's present ownership interest in Yara International.

### **3.3.3 Companies with commercial objectives and other specific, defined objectives**

#### **BaneTele AS**

BaneTele AS is an important player in the broadband market in Norway. The Government's objective is that BaneTele's operations in Norway should be further developed and strengthened on the basis of a network that is open to all suppliers of broadband services on commercial terms. The company shall be run on commercial principles. The state's ownership helps to ensure national control over important infrastructure.

The network which BaneTele has at its disposal is important national infrastructure that is of great importance in ensuring genuine competition in the broadband market. With a shareholding of 50 per cent and special provisions in the current shareholder agreement, the state is in a position to influence the company's strategic choices in order to make sure that they are in accordance with this objective. The Government will maintain the state's ownership interest in BaneTele.

### **Electronic Chart Centre AS**

The main objective of the State's ownership of Electronic Chart Center (ECC) is to fulfil Norway's obligations under international conventions on safety at sea and to meet the country's needs for safe navigation by administering and making available authorised electronic navigation charts owned by the Norwegian Hydrographic Service. ECC shall operate on commercial principles and support Norway's role as a seafaring nation by contributing to improved safety at sea, both in Norwegian and international waters. The Government will maintain the state's ownership of ECC.

### **Kommunalbanken AS**

The purpose of state ownership of Kommunalbanken is to contribute to low lending costs for the municipal sector at the same time as the company shall provide the state with a return on the capital it has invested.

Kommunalbanken has the highest credit rating it is possible to achieve (AAA rating). The company's customer base contributes significantly to the bank's excellent credit-worthiness. Kommunalbanken offers the same lending terms to small and medium-sized municipalities as it does to large municipalities. In the present lending market for the municipal sector, there is competition between several players with high credit ratings, and this helps to ensure good lending terms for municipalities. The state's ownership of Kommunalbanken contributes to a well-functioning lending market.

The Government has no plans to change the state's ownership of the company. The question of state ownership of Kommunalbanken was raised in the proposition on local government for 2004 (Proposition no. 66 to the Storting (2002 – 2003)). A broad majority of the Standing Committee on Local Government and Regional Development endorsed the view that a change in the state's ownership was not necessary (cf. Recommendation no. 259 to the Storting (2002 – 2003)).

### **NSB AS**

The rail sector is a high priority area for the Government. A good public transport system and the transfer of goods transport from road to rail are important factors in reducing the socio-economic problems relating to the environment, shortage of land and transport safety. To ensure that rail transport has a strong position in competition with other means of transport, it is important that the state maintains its ownership of the NSB group, particularly because NSB is at present the only real provider of passenger transport services in the whole Norwegian rail network.

Running a railway carries a relatively high financial risk because of the high fixed costs involved. This makes it necessary to have an owner with a long-term perspective on the

development of the enterprise. The state's ownership strategy in relation to NSB is intended to contribute to optimal value creation in the company over time. In following up its ownership of NSB, the state has been particularly concerned with the synergies that can be achieved through exploiting the fact that NSB is a broad-based transport group, while at the same time ensuring that the transport services offered to the public are both safe and meet the public's requirements.

NSB shall provide safe rail services tailored to meet the public's requirements. Moreover, the company shall create as much value as possible for the state over time. In addition, the state wishes to contribute to strengthening Norwegian business and industry and improving the efficiency of the Norwegian economy by developing a modern and efficient goods transport service. No changes are planned in the state's ownership of NSB AS.

### **Posten Norge AS**

The purpose of the state's ownership of Posten Norge AS (Norway Post) is to ensure that statutory delivery services are provided nationwide, and that the company meets its obligations to society as a whole in a good and cost-efficient manner. Within this framework, the company shall ensure good management of the state's assets and good industrial development of the company. The company shall provide postal services adapted to meet the needs of different customer groups at competitive prices. This should be done through the further development of existing services and the development of new services which underpin Norway Post's core business.

In the postal services sector, this objective is largely met through sector-specific regulation and the arrangement whereby the state purchases unprofitable postal

*Post in shops.*



Photo: Øyvind Haug



services. Norway Post has been granted sole right to deliver closed, addressed letter mail within a defined weight and price range, and, through its licence and the Act relating to basic banking services in Norway Post's service network, it is obliged to provide statutory postal services and basic banking services throughout the country.

The Storting set aside previous decisions on the final winding up of Norway Post's monopoly on 9 June 2006, cf. Recommendation no. 182 to the Storting (2005 – 2006), Proposition no. 58 to the Storting (2005 – 2006) and Decision no. 396.

### **Statkraft SF**

Its ownership of Statkraft SF ensures that the state has control of water resources and the natural environment. Moreover, state ownership ensures that head office functions remain in Norway and that Norwegian expertise is developed in the field of energy production in general and environmentally-friendly energy production in particular, also including the production of new renewable energy. In this way, state ownership contributes to maintaining and developing Norway as an industrial nation.

Within the framework of the EEA regulations, Statkraft shall endeavour to meet industry's needs for a stable power supply in the long-term.

The state's ownership of Statkraft also ensures that society as a whole receives a return on and revenues from Norwegian hydroelectric power. Statkraft SF shall be wholly state-owned, and the company shall own 100 per cent of the shares in Statkraft AS.

### **Statskonsult AS**

Statskonsult AS is a centre of competence for public management policy. On normal market and competitive terms, Statskonsult shall provide services such as evaluations, studies, consultancy services, competence building etc. which promote the development of good public management. Statskonsult has close ties with the agencies that act as policy instruments in the implementation of public management policy. The Government has started a complete review of this system. Statskonsult will be one of the entities included in this overall assessment.

### **Store Norske Spitsbergen Kulkompani AS**

The objective of state ownership of Store Norske Spitsbergen Kulkompani is to contribute to the continued existence and further development of the community in Longyearbyen and to ensure that it develops in a manner that underpins the overriding aims of Norwegian policy for Svalbard. The company shall be run on commercial principles with a view to achieving a market return on the capital invested.

The Government believes that it is important and in the national interest that the state remains the dominant shareholder in Store Norske Spitsbergen Kulkompani AS. The jobs in connection with the operation of the coal mines have made a substantial contribution for many years to maintaining stable, year-round Norwegian activity and settlement on Svalbard.

The Government takes a long-term view of the state's ownership and does not wish to reduce it.

#### **Veterinærmedisinsk Oppdragscenter AS**

The main objective of the state's ownership of Veterinærmedisinsk Oppdragscenter (VESO) is to ensure that the company can be an active provider of expertise and services from veterinary research environments and the field of veterinary medicine. In Proposition no. 84 to the Storting (2000 – 2001), the Storting authorised the sale of 66 per cent of the state's shares in VESO. In autumn 2001, 49 per cent of the shares were sold to SIVA SF. The business shall be run on a commercial basis.

### **3.3.4 Companies with sectoral policy objectives**

#### **Avinor AS**

The objective of the state's ownership of Avinor AS is to ensure that the public can enjoy safe, environmentally-friendly travel services in all parts of the country. This should be achieved through the further development of existing services and the development of new services which underpin the operation of airports and air navigation services. The company shall fulfil its statutory obligations in a good and cost-efficient manner. The company shall also generate good value creation for the state over time. The Government wishes to continue state ownership of Avinor AS, among other things, in order to maintain control of strategically important infrastructure and to ensure that resources are shared between airports with disparate earning potentials in an efficient and robust manner.

#### **Bjørnøen AS**

The objective of the state's ownership of Bjørnøen AS is to safeguard Norwegian sovereignty through occupying the property on the island of Bjørnøya to which the company has title. Bjørnøya is situated in a strategically important location, halfway between the Norwegian mainland and Svalbard. A small area of land on the island will be sufficient to meet supply and transport needs and to serve as an emergency harbour in connection with the recovery of oil in the Barents Sea and other activities in the Arctic region.

**Enova SF**

The purpose of the state's ownership of Enova SF is to ensure ownership of an instrument aimed at achieving energy policy objectives.

Through exercising overriding management and control of Enova SF, the state shall ensure that the company fulfils its object in an efficient manner.

**Gassco AS**

The purpose of the state's ownership of Gassco AS is to carry out the responsibilities of operator for the transport of all gas from the Norwegian Continental Shelf. The transport and processing facilities serve all producers of gas and contribute to the efficient overall utilisation of the resources on the continental shelf. The operator responsible for running the transport systems for gas must behave neutrally in relation to all users of the transport system. Gassco was formed in order to take account of these considerations, particularly in light of the fact that the owners of the transport system are also producers of gas and thus users of the system.

**Industrijeneste AS**

Industrijeneste AS was incorporated as a company in 1966 on the initiative of Norges Vernesamband. The Ministry of Justice took over the shares in 1980 when the state took over responsibility for Norges Vernesamband and the local rehabilitation and probation associations. The state's ownership of Industrijeneste AS is thus not the result of a commercially motivated investment.

*At Kollsnes processing plant, gas from the Troll field is processed before being transported to the market.*



© Gassco AS

In connection with its consideration of Proposition no. 20 to the Storting (2005 – 2006), cf. Recommendation no. 47 to the Storting (2005 – 2006) and the pertaining Decision III, the Storting consented to the Ministry of Labour and Social Affairs (now the Ministry of Labour and Social Inclusion) and the Ministry of Justice selling the state's shares in AS Rehabil, Blindes produkter AS and Industritjeneste AS.

### **Kings Bay AS**

The objective of the state's ownership of Kings Bay AS is to ensure the development of Ny-Ålesund as a centre for Norwegian scientific research on Svalbard, cf. White Paper no. 50 (1990 – 91) and Recommendation no. 105 to the Storting (1991 – 1992). In connection with the consideration of White Paper no. 9 relating to Svalbard (1999 – 2000), it was emphasised that any further increase in research must take place within environmentally justifiable limits. In accordance with this condition, the Storting endorsed a proposal for the further development of Ny-Ålesund as a green research station, and it stipulated that Kings Bay AS must ensure that necessary measures are taken to reduce the environmental impact of the activities in the Ny-Ålesund area to a minimum.

### **Kompetansesenteret for IT i helse- og sosialsektoren AS**

When the company was formed in 1996, the intention behind the state's ownership of Kompetansesenteret for IT i helse- og sosialsektoren (KITH) was to ensure that the company would become an instrument for achieving national health policy objectives through the use of information and communication technology (ICT).

The main objectives of the state's ownership strategy for KITH are as follows:

- To meet the health sector's need for a uniform conceptual system and standards for the secure exchange of information and treatment-oriented systems.
- To make a significant contribution to the development of the social services sector and nursing and care services' overall utilisation of IT
- To further develop KITH as a customer-focused, competence-based enterprise with implementation capacity.

The strategy entails focusing on the tasks that formed the basis for the formation of KITH, in relation to both financing from the central health and social services administration and the profile of the assignment portfolio. KITH looks after the owner's interests through, among other things, the centre's work in connection with the national strategy for electronic cooperation in the health and social services sector (S@mspill 2007). In concrete terms, this means carrying out assignments for regional health enterprises and health trusts, both individually and under the auspices of the regional health enterprises' cooperation forum (Nasjonal IKT) and the central health administration. Through its assignment-based activities, KITH endeavours to spread the results of its standardisation

work and to make the expertise it has built up available to players in the health and social services sector.

### **NORFUND**

The Norwegian Investment Fund for Developing Countries (NORFUND) was established in 1997. NORFUND's task is to contribute investment capital and to furnish loans and guarantees for the development of profitable and sustainable businesses in countries that otherwise do not have access to commercial financing because of the high risk involved. The fund shall operate in accordance with the fundamental principles for Norwegian development policy. The fund's capital comes from annual allocations in the national budget. In the long-term, the aim is that NORFUND shall be financed through its current capital income and the returns on its investments. NORFUND owns the investment management company Aureos Capital Ltd together with British Actis, and Statkraft NORFUND Power Invest AS (SN Power) together with Statkraft.

### **Norsk Eiendomsinformasjon AS**

The purpose of the state's ownership of Norsk Eiendomsinformasjon AS is to ensure that important public tasks relating to the operation, maintenance and system development of the Land Register are carried out in an adequate and secure manner.

The purpose of the Land Register is to safeguard rights relating to real property. The Land Register contributes to value creation. It is important, therefore, that the operation, maintenance and system development of the Land Register and the dissemination of the information it contains is carried out in as expedient and correct a manner as possible. The quality and credibility of the Land Register must be maintained and further developed, also in connection with the transfer of the official registration function from the courts to the Norwegian Mapping Authority, cf. the decision by the Storting of 12 June 2002 requesting the Government to establish a central register attached to the Norwegian Mapping Authority's head office in the municipality of Ringerike.

Norsk Eiendomsinformasjon's activities benefit society by ensuring good access for private and public users to the information in the Land Register without this placing a burden on public resources.

### **Norsk Rikskringkasting AS**

The purpose of the state's ownership of Norsk Rikskringkasting (NRK) is primarily to ensure good public broadcasting that meets needs of a social, democratic and cultural nature. It is enshrined in Chapter 6 of the Broadcasting Act that the state shall own all the shares in NRK AS and that the object of the company is to engage in public broadcasting and activities related thereto.

### **Norsk Samfunnsvitenskaplig Datatjeneste AS**

The purpose of the state's ownership of Norsk Samfunnsvitenskaplig Datatjeneste (NSD) (Norwegian Social Science Data Services) is to provide the research community with data processing and related services. In accordance with the company's object, it collaborates with Norwegian and international players on development work. NSD has a neutral role in relation to its partners in Norway and abroad. The state's ownership contributes to ensuring that the needs of the educational and research sectors for data processing and related services are met in a satisfactory manner. The basic financing provided by the state and its purchase of services contributes to the achievement of the company's objectives.

### **Norsk Tipping AS**

The purpose of the state's ownership of Norsk Tipping AS is to channel people's desire to gamble into a moderate and responsible service that does not result in social problems. Within the framework stipulated by the authorities, the company shall give people an opportunity to take part in games of chance within responsible limits with a view to preventing negative consequences of gambling and generating a profit that can be used for socially beneficial purposes. The Government wishes Norsk Tipping to be a player that contributes to developing the gambling market in a direction that is justifiable in social policy terms.

In Norwegian law, there is a general prohibition against gambling for money, and there has been a broad political consensus that gambling should be positively regulated and enshrined in law. Section 2.3, Objectives and Ideological Basis, of Proposition no. 52 to the Odelsting (1991 – 1992) on the Act relating to gambling states that "moral



© Norsk Tipping

considerations have always been a central element in legislation relating to games of chance and lotteries in Norway". At the same time, changing governments have acknowledged that there is an interest in gambling in society. Channelling the desire to gamble through a publicly-owned company has been seen as an expedient way of organising gambling, since it takes place in a justifiable form under public control and supervision within a legislative framework. In addition, public ownership means that the substantial revenues generated by gambling can be used for the common good. The Storting has on several subsequent occasions reiterated this view, most recently in connection with the Storting's overall review of the gambling sector in its consideration of Proposition no. 44 to the Odelsting (2002 – 2003) On the Act amending gambling and lottery legislation.

The objective of the company is to prevent negative consequences of gambling activities. The profits from gambling shall as far as possible be used to provide funds for sport and culture and, when Norsk Tipping AS takes over sole responsibility for the operation of gambling machines as decided by the Storting in 2003, socially beneficial and humanitarian organisations. As long as Norsk Tipping acts as a political instrument for the development of the gambling market, the commercial development of the company must be closely coordinated with the regulation of the games of chance offered by the company and the terms and conditions under which the company operates, including the development of the regulations that apply to the rest of the lottery market.

### **Petoro AS**

The purpose of the state's ownership of Petoro is to ensure the best possible management of the state's direct financial interest in petroleum recovery on the Norwegian Continental Shelf (the SDFI portfolio). The stock exchange listing and partial privatisation of Statoil in 2001 meant that the arrangements relating to SDFI had to be changed. Great emphasis was placed on maintaining and further developing the positive elements in the management arrangements for SDFI in order to ensure that the state's financial interests would continue to be managed as efficiently as possible. It was decided that the commercial aspects relating to the partnership shares which the state owns, or reserves the right to, should be managed by a limited company which should be owned by the state alone.

Petoro manages extremely large assets on behalf of the state. The state wishes to ensure the best possible management of these assets, and good and active follow-up of Petoro is therefore necessary. An important task for the state as owner of Petoro will be to take steps to ensure that the company achieves the objectives set for it by the state and to ensure that the company operates within the framework applicable at all times.

### **Simula Research Laboratory AS**

The purpose of the state's ownership of Simula Research Laboratory AS is to ensure that the research centre carries out basic long-term research in selected areas within the field of software and communications technology. The centre was established on the basis of the IT Fornebu project as part of the state's contribution. It was regarded as important for the state to contribute to the increased efforts in ICT research. State ownership of the Simula centre helps to ensure that research in Norway maintains a high international level, while at the same time ensuring that highly-qualified researchers are trained. State financing contributes to the achievement of the company's objectives through basic funding provided by the Ministry of Education and Research, the Ministry of Trade and Industry and the Ministry of Transport and Communications.

### **SIVA SF**

The purpose of the state's ownership of SIVA SF is to contribute to innovation and economic development through property development and the development of strong regional environments for innovation and value creation in all parts of the country. SIVA has a particular responsibility for promoting growth in outlying regions.

By exercising overriding management and control in SIVA, the state shall ensure that the company serves as an effective driving force for innovation, value creation and new jobs.

In recent years, SIVA has increasingly become a national policy instrument, among other things through the Ministry of Trade and Industry's provision of funding for SIVA's operations. This has improved SIVA's ability to promote innovation and economic development by mobilising and developing regional environments for innovation and value creation throughout the country. Together with the regional policy funds which the Ministry of Local Government and Regional Development puts at SIVA's disposal, this provides the company with the resources it needs to maintain economic activity and create new, forward-looking jobs.

### **Statnett SF**

In accordance with its defined object, Statnett SF is responsible for the efficient socio-economic operation and development of the national transmission grid for electric power. Statnett shall otherwise follow commercial principles.

Statnett is a special enterprise which has clear official functions and monopoly tasks in the power sector. System responsibility is an important socio-economic task and, in order to ensure an efficient power market, it is important that system responsibility is exercised in a satisfactory manner. Moreover, Statnett shall operate in accordance with socio-economic criteria. The state's ownership of Statnett contributes to the perception of the



enterprise as a neutral player in the market. This is important since Statnett's decisions can have major financial consequences for many players. In general, state ownership of Statnett helps to ensure that the enterprise performs its tasks on behalf of society as a whole in an efficient manner.

### **Statskog SF**

The purpose of the state's ownership of Statskog SF is to ensure the efficient management of forestry resources for the benefit of society as a whole and to facilitate matters so that the general public can take part in hunting, fishing and outdoor pursuits etc. Moreover, a large part of Statskog's land consists of state-owned common land where those with rights of use to the common land in question have extensive rights regulated through the Mountains Act, the Act relating to state-owned common land and the Act relating to village commons. Through state ownership, it is possible for the state to achieve various policy objectives relating to the management of forestry and outlying land. The business shall be run on a commercial basis.

The Government will retain Statskog as wholly state-owned company.

### **UNINETT AS**

The purpose of the state's ownership of UNINETT AS is to ensure the operation and further development of a national electronic service network for the exchange of information between individual groups and groups of users in research and education in Norway. Other institutions and/or users can also be offered UNINETT's services if no alternative service providers exist and this is beneficial for the company's primary target group. State ownership of UNINETT AS ensures that overriding considerations relating to the coordination and further development of the overall national infrastructure for advanced research and higher education are adequately attended to. The state contributes to the company achieving its objectives through the provision of basic financing and the purchase of the company's services.

### **Universitetscenteret på Svalbard AS**

The purpose of the state's ownership of Universitetscenteret på Svalbard (UNIS) is to contribute to enabling the centre to offer programmes of study at university level and to carry out research on the basis of Svalbard's location in a High Arctic area. In research policy terms, Svalbard is an important arena for internationalising Norwegian research and for collaborating with foreign research environments. State ownership of UNIS ensures that such research policy considerations are adequately addressed. The state also contributes to the achievement of the company's objectives through basic financing.

### **AS Vinmonopolet**

The purpose of the state's ownership of AS Vinmonopolet is to manage one of the most important instruments of Norwegian alcohol policy. By limiting the availability of alcoholic beverages, controlling the sale of such beverages and excluding private interests, Vinmonopolet contributes to limiting the consumption of alcohol, and thereby prevents social and health-related problems resulting from the consumption of alcohol.

The Storting has laid down guidelines for Vinmonopolet's activities on several occasions. Recommendation no. 19 to the Odelsting (2004 – 2005) on amendments to the Alcohol Act etc. contains several statements concerning the framework conditions for Vinmonopolet's activities. The majority emphasised that there is broad political support for the state monopoly on the sale of wines and spirits and that the system is an important element in Norwegian alcohol policy.

### **Regional health enterprises**

The purpose of the state's ownership of the regional health enterprises is to have an instrument with which to achieve national health policy objectives. Ownership is a sectoral policy instrument and the enterprises are required to operate in a cost-efficient manner.

A prime objective of state ownership is to achieve overall, coherent management of the specialist health service and to improve the utilisation of resources in order to ensure and further develop good health services for the general public.

Southern Norway Regional Health Authority is one of five regional health enterprises that are responsible for the specialist health service in Norway.

*Southern Norway Regional Health Authority is one of five regional health enterprises that are responsible for the specialist health service in Norway.*



### 3.3.5 Other companies

Companies not dealt with in the White paper on ownership and thus not placed in one of the four categories of company.

#### **Innovation Norway**

Innovation Norway was formed on 19 December 2003 and it started operations on 1 January 2004. Innovation Norway took over the policy instruments previously administered by the Norwegian Industrial and regional Development Fund (SND), the Norwegian Trade Council, the Norwegian Tourist Board and the Government Consultative Office for Inventors (SVO). The objective of the company is to promote commercial and socio-economically profitable economic development throughout the country, and to release the potential in the different regions' economies through contributing to innovation, internationalisation and image-building.

Innovation Norway's role is to contribute, bring together and trigger financing, expertise and networks for innovative projects in enterprises. The company administers business-related funding on behalf of the Ministry of Trade and Industry, the Ministry of Local Government and Regional Development, the Ministry of Agriculture and Food, the Ministry of Fisheries and Coastal Affairs and all the Norwegian counties and County Governors. Innovation Norway also engages in general image-building of Norway as a destination for tourists and others. The company has offices in more than 30 different countries and is represented in all the Norwegian counties.

#### **Secora AS**

Secora AS, which was formed on 1 January 2005, is a continuation of the former Kystverket Produksjon. Secora AS is a maritime contractor whose core business is in the development of ports and shipping fairways, the building and maintenance of quay facilities, subsea surveys and inspections, the building and maintenance of breakwaters and environmental dredging.

The company's head office is in Svolvær. The overriding objective of Secora AS is to establish its position as national market leader and to become a profitable and professional player in the Nordic countries. The company's financial objective is to achieve better financial results than the average for comparable players in the industry.

The company also aims to have established business operations in the Nordic countries by 2009.

# 4

## REQUIREMENTS OF THE COMPANIES

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Companies in which the state has an ownership interest shall be managed in accordance with the principles for good corporate governance. It is an overriding aim that they should be managed with a view to ensuring a market return and good industrial development over time. Within this commercial framework, it is assumed that the companies will also promote conditions that underpin good long-term development.

### **4.1 Companies with commercial objectives – required rate of return**

The value of the state's direct ownership interests in Norwegian business and industry is considerable, and the state takes a long-term view of its investments. The return on the capital invested is therefore a central concern in the state's management of its ownership interests. It follows, among other things, from the state's financial management regulations that target rates of return shall be drawn up for companies in which the state has an ownership interest. By target rate of return is meant the owner's expectations for a return in the form of dividend and appreciation in value of its capital investment.

Setting concrete targets for returns is a signal that the owner emphasises that its investments should be profitable, and the target rates of return are necessary prerequisite for following up and evaluating actual developments in relation to the owner's expectations. For companies with commercial objectives, a target rate of return is calculated on the basis of the Capital Asset Pricing Model (CAPM), which is a model frequently used for such purposes. Although the model has certain weaknesses, it is widely used in practice in the absence of a better alternative. Because of the weaknesses of the model, it is important that sound judgement is exercised during the calculation of the target rate of return.

The capital asset pricing model is based on portfolio theory and says something about the rate of return that should be expected in relation to the risk that the company entails for an investor's portfolio. In a perfect capital market in which investors are well-diversified, all company-specific risk (non-systematic risk) is capable of being eliminated through diversification, and it is only the individual company's contribution to the risk in the well-diversified portfolio (systematic risk) the investors demand payment for in the form of a higher return. The target rate of return for each individual company is therefore calculated on the basis of how the company's returns vary in relation to the market portfolio, and not on the basis of the individual company's total risk.

## 4.2 The capital asset pricing model

$$k_i = r_f + \beta_i (r_m - r_f)$$

- $k_i$  indicates the target rate of return for company i and represents the return obtainable through an alternative investment of the capital in assets with an identical risk profile as company i.
- $r_f$  indicates the risk-free interest rate. The risk-free interest is a theoretical concept that represents the return obtainable by investing the capital in a secure, risk-free asset. When calculating using this model, the effective interest rate on Oslo Børs's index for government bonds with 5 years remaining to maturity is used. The Ministry has chosen to use government bonds with five years remaining to maturity in order to ensure consistency with the target rate of return, which should be an annual average for a period of 3 to 5 years
- $\beta_i$  indicates beta for company i. This factor indicates the degree of co-variation between the return from company i and the return on the market portfolio. For listed companies,  $\beta_i$  is estimated on the basis of developments in a company's share price in relation to developments in the market in which the company's share is traded. Thus, for Norwegian listed companies, Oslo Børs's main index is used in calculations using this model. For unlisted companies, no information is available about a company's fair value, and  $\beta$  is estimated on the basis of comparable listed companies' and adjusted in relation to differences in their debt equity ratios.  $\beta$  expresses the co-variation between the equity of company i and the market portfolio as it has been during the estimated period. It is therefore a prerequisite for the model that historical figures give a correct picture of the future development of the company and of the market. In order to adjust for any errors of measurement in the historical figures and for the fact that  $\beta$  has a tendency to gravitate towards the market or the average for the industry involved (mean reverting), among other things because companies compare themselves with each other, the estimated  $\beta$  is normalised using the formula  $(1/3) + \beta(2/3)$ .
- $r_m$  indicates the annual return on the market portfolio, and  $r_m - r_f$  thus indicates the market's risk premium, i.e. the difference between the return on the diversified market portfolio and the return on the secure risk-free asset.

In principle, the intention is that the target rates of return will remain fixed for a period of 3 to 5 years, after which time a full review and reassessment will be carried out. If significant changes have taken place in the capital market or in a company's risk profile, it will be natural to change the target rates of return. The target rates of return are used as the basis for a dialogue with the companies concerned. In following up the targets,

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commercial and professional judgement is also exercised in relation to the assumptions on which the model is based and annual fluctuations in returns and profitability.

For unlisted companies for which it is difficult to find suitable listed companies and industries with which to compare in order to arrive at the market value, valuations are carried out of the biggest companies. In such valuations, the Ministry employs external financial consultants who prepare the concrete estimates for the value of the companies. The value of the unlisted companies can be considerable, and external valuations are thus an important tool that enables the state as owner to assess financial developments in its portfolio.

## 4.3 Companies with sectoral policy objectives

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For companies which do not have commercial objectives or which are dependent on state subsidies in order to continue in operation, no targets are set for returns. For these companies, the state's regulations for subsidies must be followed with respect to allocations and reporting. For such companies, efficient operation is a requirement.

## 4.4 Dividend

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As a major owner, it is important that the state expresses opinions and expectations with respect to the companies' dividend policy, cf. White Paper no. 13 (2006-2007). A reasonable dividend policy shall contribute to a good long-term market rate of return and good industrial development of the companies.

In the Soria Moria declaration, the Government stated that publicly-owned companies should be assured a predictable dividend policy. This was also reiterated in White Paper no. 13 (2006-2007) and has broad support in the Storting.

Certain sectoral-policy companies have stipulated in their articles of association that they shall not distribute dividends. Nor do other companies that are dependent on grants or annual allocations normally distribute dividends.

Pursuant to the Limited Liability Companies Act and Public Limited Liability Companies Act, a company's general meeting may not adopt a higher dividend than proposed or accepted by the company's board of directors (this is different in state-owned limited liability companies). Within this limitation, the general meeting can stipulate the highest amount that can be distributed. However, it is quite legitimate for the state as owner to

express its expectations concerning dividend and also the considerations on which these expectations are based.

#### **4.4.1 Long-term dividend expectations**

The ministries responsible for the ownership interests formulate long-term dividend expectations for companies with commercial objectives in which the state has an ownership interest. The expectations express an average dividend over a period of three to five years, or for a longer period if this is deemed relevant. The ministries' long-term dividend expectations for the individual companies are normally formulated as a percentage of the company's profit for the year after minority interests. For some companies, the profit for the year is adjusted for certain items in order to arrive at the basis for dividend.

The expectations for dividend which the state communicates to the individual companies must be predictable and will normally be fixed for a period of several years. Over a longer period, however, the company's situation may change in a manner that makes it natural to revise the dividend policy.

When stipulating the state's long-term dividend expectations for individual companies, a systematic review is carried out of the following criteria:

- The company's strategy
- The company's lifecycle
- The company's capital structure
- Reaction to insufficient return on capital
- The company's investment history
- Dividend policy as a control function
- The company's competitors/the industry

Each factor is first considered separately. The extent to which the individual factors are interrelated or influence each other is then considered, before the factors are weighted and an appropriate dividend expectation is arrived at for the individual companies.

#### **4.4.2 Short-term dividend expectations for the individual year**

In addition to the long-term dividend expectations, the relevant ministries also formulate expectations for dividend for the year that is to be adopted by the general meeting at the board of directors' proposal. In connection with the dividend expectations for the individual year, the above factors are reviewed separately for the year in question in order to assess whether the dividend expectation for that year should deviate from the long-term dividend expectations. In addition, the following matters are also considered:

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- A repurchase programme for own shares.
- Commercial profitability in relation to major deviations from the trend.
- A wish for a constant or constantly increasing dividend expressed in NOK per share.
- The risk of suboptimal decisions in the company.
- The liquidity situation.
- Profitable known investment needs in the near future relating to existing activities.
- Other special factors that are of particular importance to the individual company's ability to distribute dividend.

The state's dividend expectations for a given year are discussed with and communicated to the management of the individual companies, so that the boards of the companies are informed about the state's expectations before the board puts forward its proposal for dividend for the year.

## 4.5 Repurchase of shares

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In combination with the distribution of dividend, the repurchase of own shares for subsequent cancellation is seen as an effective and flexible means of adapting a company's equity to its needs.

A share repurchase programme is a form of allocation of profit, and it should be seen in conjunction with the company's capital situation. Equity which a company sees no reasonable allocation for is returned to the stock market through owners who choose to sell their shares. This contributes to increased capital discipline. Through the permanent cancellation of the repurchased shares, the underlying values behind each of the remaining shares remain unchanged. A repurchase programme thereby provides companies with an instrument for optimising the company's capital structure by returning capital to the owners. Repurchasing also has a positive effect for the remaining shareholders and is regarded as positive by the stock market in that there are fewer shares between which to divide future profits.

In companies in which the state is owner, it is generally seen as desirable that the repurchase and subsequent cancellation of own shares does not lead to a change in the state's relative ownership interest. In recent years, therefore, the state has entered into agreements for proportional redemption of shares for cancellation in connection with the establishment of such repurchase programmes. The state's percentage holding thus remains unchanged. These repurchase programmes have been within the limits set by the Storting for the Government's administering of the state's ownership, since the limits for many companies entail specific percentage ownership interests, or minimum holdings



to be held by the state, and this is precisely what is achieved through the repurchase agreements.

The repurchase agreements have been drawn up in a manner whereby the companies undertake to pay a volume-weighted average of the prices the companies have paid in connection with purchases on the market and interest compensation for delayed settlement. The state is thus guaranteed a price corresponding to the price for which other shareholders have been willing to sell.

If a company's management is paid share-based remuneration as part of an incentive programme, this can, seen in isolation, provide an incentive for preferring the repurchase of shares instead of increased dividend. In connection with future repurchase agreements with the state, it is a precondition that the company undertakes to neutralise such incentives in relation to leading personnel.

As the Government also stated in White Paper no. 13 (2006-2007), the Government believes that listed companies in which the state has an ownership interest should have the same opportunity as other companies to use the repurchase of shares to supplement their ordinary dividend policy. It emphasised in this context that the state as owner views repurchase agreements as a supplement, and not as an *alternative* to dividend. From the state's perspective, therefore, the guidelines for the stipulation of dividend should be fixed regardless of whether or not companies decide to repurchase own shares. Whether or not the state will participate in repurchase agreements will be subject to a concrete assessment in each individual case.

## 4.6 The companies' reporting

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Grøndahl i DnB NOR ASA



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Information and reporting from the companies forms the basis for the formal exercising of the role of owner at the general meeting, the consideration, if applicable, of the infusion of capital by the state, follow-up of relevant requirements and decisions by the Storting, and the follow-up of the state's requirements for a return and dividend. On a par with other shareholders, the state shall at all times have relevant, updated and correct information about the companies it owns and their operations. This is a precondition for assessing financial developments in the companies.

Reporting that forms the basis for following up and controlling results shall mainly be in the form of annual reports, i.e. annual accounts and directors' reports prepared in accordance with the (Norwegian) Accounting Act. As owner, the state also normally expects that wholly or partially state-owned companies prepare public interim reports for each of the four quarters of the financial year. Such interim reports play a crucial role in enabling continual assessments to be carried out of developments in the companies throughout the year.

In general, the companies should report important matters with which the shareholders are concerned. This may make it necessary for annual reports to contain more information on certain areas than required by the Accounting Act. The state expects companies in which the state has an ownership interest to maintain an open dialogue with their surroundings about their finances, social responsibility and environmental matters, and that the companies take steps to provide information about how they deal with these matters in practice and the results they achieve. Both the companies' annual reports and their websites are appropriate channels in this context. Large companies with international operations should consider using the reporting norm "Global Reporting Initiative"<sup>5</sup>. This norm has broad support and is supported by the UN's environmental programme, UNEP.

Pursuant to the regulations relating to state subsidy arrangements, special reporting requirements apply to companies that receive state subsidies.

<sup>5</sup> [www.globalreporting.org](http://www.globalreporting.org)

## THE GOVERNMENT'S POLICY ON THE REMUNERATION OF LEADING PERSONNEL

The Government wishes to ensure moderation in connection with the remuneration of leading personnel in companies in which the state is a substantial owner. Decisions on effective rewards schemes are of major importance to the companies themselves and to society as a whole. Leading executives are the most visible representatives of and therefore closely identified with the companies, and it is therefore particularly important that their earnings are perceived as being reasonable.

The previous Stoltenberg Government introduced guidelines for the terms of employment for leading personnel in wholly state-owned companies. The guidelines state that «... the remuneration of leading personnel in state-owned companies shall be competitive but shall not lead the field in their respective industries». This is also the fundamental attitude of the present Government.

The remuneration of leading personnel has increased more than is desirable, and it has proved necessary to introduce measures that give shareholders greater influence over policy concerning the remuneration of leading personnel. Pursuant to the amendments to the Public Limited liability Companies Act, cf. Proposition no. 55 to the Storting (2005-2006), it was decided with effect from the annual general meetings to be held in spring 2007 that terms of remuneration for leading personnel shall be considered by the annual general meeting.

The amendment means that the board of directors shall prepare a statement on the fixing of salary and other remuneration of leading personnel and that this statement shall be considered by the annual general meeting. The statement must contain a description of the policy on the remuneration of leading personnel practised in the preceding financial year in addition to guidelines for the fixing of salary and other remuneration for the coming financial year. The amendment means that the approval of the general meeting is required for those parts of the statement that contain guidelines for share-based and share value-based remuneration.

The new procedural rules for fixing the remuneration of leading personnel will provide shareholders with greater insight into and influence over the company's policy for such remuneration, particularly as regards the payment of additional benefits such as bonuses, options, pension schemes, severance packages and similar arrangements.

The amendment to the Public Limited Liability Companies Act means that the annual general meeting will have greater influence given that it will also vote on the statement.

It is important, however, that the prescribed division of roles in companies legislation between companies' governing bodies is maintained. It will still be the board of directors in each individual company that is responsible for adopting the specific salary and incentive arrangements. It is also up to the board to assess whether the individual elements in any incentive arrangement are a necessary part of the total remuneration package in order to ensure that the remuneration of executives and other staff in a company is competitive.

As a shareholder, the state will assess how the board of directors exercises this responsibility as part of its overall assessment of the board's work in individual companies.

No owners or companies benefit from internal or external unrest relating to unreasonable remuneration or a lack of transparency about such remuneration. Options, in particular, have proven to have undesirable effects since they have resulted in very large payments following changes which are beyond the influence of leading personnel. Research into share-based remuneration provides little support for the view that option agreements are necessary in the type of companies in which the state is a shareholder. In this light, this Government sees more moderation and restraint as being necessary on the part of companies' managements. On this basis, the state will vote against the introduction of new agreements that entail share options in the companies covered by the White Paper on Ownership, Proposition no. 13 to the Storting (2006-2007).

Companies in which the state is a shareholder should, however, be allowed to use other incentive schemes in fixing the remuneration of leading personnel. However, any incentive schemes must be designed in a manner that ensures moderation in the development of pay conditions for leading personnel. Moreover, there must be a ceiling on the value of the programme that is perceived to be reasonable. Insofar as variable pay is to be used, the conditions for payment should as far as possible be linked to factors that can be influenced by the person who receives the remuneration. External factors should as far as possible be eliminated. In order to ensure the independence of the board of directors, the board shall not be included in such incentive programmes.

The state has drawn up guidelines concerning the factors it will emphasise in its voting when the remuneration of leading personnel is being considered at the company's general meeting. The guidelines also reflect the state's attitude to these questions in companies in which the fixing of the remuneration of leading personnel is not a separate item on the agenda at the general meeting, cf. the attached "Guidelines for state ownership: Policy on the remuneration of leading personnel".

# THE DIVISION OF ROLES IN THE STATE ADMINISTRATION

## 6.1 The purpose of distinguishing between roles

The exercise of ownership is just one of the state's many responsibilities. Roughly speaking, the state's responsibilities can be divided into three distinct functions:

- Its policy-making function
- Public supervisory authority
- Manager of the state's shares and other property

The extensive state ownership means that it is important to distinguish between these three functions. The state's role as policy maker and market regulator differs from its role as owner. In order to safeguard the legitimacy of these roles and create trust in the state as owner, the roles must be kept separate. A system has been developed whereby, unless special considerations apply, commercial companies are administered by the Ministry of Trade and Industry. The efforts to increase the organisational distance between the state's role as owner and the roles of the different authorities, and the concentration of the state's commercial ownership interests in one place in the central state administration has helped to increase trust in the state's administration of its ownership and to reduce role conflicts. It will often be the case that regulatory measures and the purchase of services etc. will be more precise and effective instruments for achieving policy objectives than the exercise of owner control.

Today, most of the state's commercial ownership interests are administered by the Ministry of Trade and Industry. Statoil ASA, which is administered by the Ministry of Petroleum and Energy, is an important exception. NSB AS and Posten Norge AS largely operate in markets exposed to competition, but they play an important sectoral policy role in certain areas. The state's ownership of these companies is therefore administered by the Ministry of Transport and Communications. Other sectoral policy companies such as the regional health enterprises and AS Vinmonopolet are administered by the Ministry of Health and Care Services, while NRK AS and Norsk Tipping AS are administered by the Ministry of Culture and Church Affairs.

## 6.2 On the administration of ownership in the individual ministries

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At the Ministry of Trade and Industry, the Department of Ownership administers the state's ownership interests in 20 companies. The department, which was established in 2002, is organised with a view to combining the requirements for operational capacity for the exercise of ownership with the requirements that apply to decision making processes in the ministries. The Department of Ownership has a small permanent staff, and it makes extensive use of external consultants. All the companies administered by the department are followed up by special company teams consisting of business economists and lawyers. Activities that cut across boundaries are organised as separate ongoing or time-limited projects. Administering the state's ownership interest in a company entails, among other things, proposing members of the board of directors and nomination committees, monitoring and following up the company's financial performance and adopting a view on any owner decisions to be made in the company.

The Ministry of Petroleum and Energy has a separate Section for State Participation in its Administration, Budgets and Accounts department that follows up the state's interests in the petroleum activities, including Statoil, the State's Direct Financial Interest (SDFI), Petoro and the state's Petroleum Insurance Fund. In addition, the Ministry of Petroleum and Energy has an Electricity Market Section in the Energy and Water Resources Department that follows up the state's ownership of Statnett SF.

The state's ownership of the specialist health services is divided into five regional health enterprises. The Ministry of Health and Care Services has a separate Department of Ownership that administers the state's ownership of the five health enterprises. The department has particular responsibility for organisational and financial management requirements and framework conditions.

**Ministry of Trade and Industry**

- Argentum Fondsinvesteringer AS
- BaneTele AS
- Bjørnøen AS
- Cermaq ASA
- DnB NOR ASA
- Eksportfinans ASA
- Electronic Chart Centre AS
- Entra Eiendom AS
- Flytoget AS
- Norsk Hydro ASA
- Innovasjon Norge
- Kings Bay AS
- Kongsberg Gruppen ASA
- Mesta AS
- Nammo AS
- SAS AB
- SIVA SF
- Statkraft SF
- Store Norske Spitsbergen Kulkompani AS
- Telenor ASA
- Venturefondet AS
- Yara International ASA

**Ministry of Petroleum and Energy**

- Enova SF
- Gassco AS
- Petoro AS
- Statnett SF
- Statoil ASA

**Ministry of Transport and Communications**

- Avinor AS
- Baneservice AS
- NSB AS
- Posten Norge AS

**Ministry of Health and Care Services**

- Kompetansesenteret for IT i helse- og sosialsektoren AS
- Regionale helseforetak
- AS Vinmonopolet

**Ministry of Agriculture and Food**

- Statsskog SF
- Veterinærmedisinsk oppdragscenter AS

**Ministry of Education and Research**

- Norsk Samfunnsvitenskapelig datatjeneste AS
- Simula Research Laboratory AS
- Uninett AS
- Universitetssenteret på Svalbard AS

**Ministry of Justice and the Police**

- Industritjeneste AS
- Norsk Eiendomsinformasjon AS

**Ministry of Fisheries and Coastal Affairs**

- Secora

**Ministry of Culture and Church Affairs**

- Norsk Rikskringkasting AS
- Norsk Tipping AS

**Ministry of Foreign Affairs**

- Norfund

**Ministry of Local Government and Regional Development**

- Kommunalbanken AS
- Husbanken

**Ministry of Government Administration and Reform**

- Statskonsult AS

## 7

## THE FRAMEWORK FOR THE STATE'S ADMINISTRATION OF ITS OWNERSHIP

When the Storting has decided that the state is to participate in an enterprise organised as a separate legal entity, this has consequences for how political guidelines and other goals must be communicated and how and to what extent it can intervene in the running of the enterprise.

In addition to the framework that follows from the Constitution and public administration legislation, it is primarily companies law, competition law and the law relating to the stock exchange and securities that stipulate requirements for the exercise of ownership. Other central legal provisions follow from EEA regulations, including the rules relating to state subsidies. Some of the most important elements in the central framework are described in the following.

### 7.1 The constitutional framework

Section 3 of the Constitution states that executive power rests with the King (the Government). The Storting can nonetheless adopt general guidelines and instruct the Govern-

*The Parliament*



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ment in individual matters, in the form of plenary decisions or the adoption of legislation.

As a rule, the public administration shall be structured in such a manner that the Government and the ministries have powers of instruction and control over other bodies. This allows the Government and the ministries to pursue political objectives which can be grounded in decisions by the Storting, directives or wishes expressed by the Storting.

State ownership is also regulated by Article 19 of the Constitution: «The King shall ensure that the properties and regalia of the State are utilised and administered in the manner determined by the Storting and in the best interests of the general public.» It is thus the Government that administers the state's shares and ownership in state enterprises and companies formed through special legislation etc. This provision gives the Storting express authority to instruct the Government in matters concerning state ownership. It is not part of the minister's powers pursuant to section 19 of the Constitution to buy or sell shares in companies in which the state has an ownership interest. This must be done on the basis of special authorisation granted by the Storting.

Pursuant to the Constitution section 12 third paragraph, administration of the ownership is delegated to the ministry to which the company is affiliated. The minister's administration of the ownership is exercised under constitutional and parliamentary responsibility. The consent of the Storting must be obtained for changes in ownership interests (the buying and selling of shares). Decisions on capital increases are deemed to be equivalent to the buying or selling of shares. State-owned companies will normally be permitted to buy and sell shares in other companies without the consent of the Storting being required when this is naturally related to the object of the company's operations. However, for state-owned limited companies (companies in which the state is the sole shareholder), consent must be obtained from the Storting in connection with decisions that will substantially change the state's participation. In partially-owned companies, there may be matters of such a magnitude that they must be submitted to the general meeting (for example a merger or demerger of the enterprise). Depending on the size of the state's holding in the company, it may be necessary to present such matters to the Storting, cf. Recommendation no. 277 to the Storting (1976 – 1977).

The Office of the Auditor General of Norway supervises the minister's (the ministry's) administration of the state's ownership and reports to the Storting in this context.

## 7.2 Companies legislation

### 7.2.1 Management of the company

The management of a company consists of the board of directors and the general manager. As a form of incorporation, the limited company, and other forms of incorporation used for the state's enterprises, is based on a clear division of roles between the shareholders and the company's management. Pursuant to the Limited Liability Companies Act/ Public Limited Liability Companies Act section 6-12 and corresponding provisions in other companies legislation, the management of the company is the responsibility of the board of directors and the general manager. This means that the management of a company's operations and responsibility for such management rests with the company's management. The board of directors and the general manager shall exercise their management on the basis of the owner's interests. Within the general and specific limits stipulated by the Storting for the enterprise, the state as owner furthers its interests through the general meeting/ enterprise general meeting. Pursuant to the provisions of companies legislation, board members and the general manager are personally liable in damages and can be subject to criminal prosecution in connection with their management of the enterprise.

### 7.2.2 The minister's authority in relation to the company

In a state-owned limited company, the legal basis for the minister's authority as owner is the Limited Liability Companies Act section 5-1, which states: «Through the general meeting the shareholders exercise supreme authority in the company.» A corresponding provision applies to public limited liability companies, state-owned enterprises and key companies formed through the adoption of special legislation. For state-owned enterprises, the expression «the general meeting» is replaced by «the enterprise general meeting», but the reality is the same.

A general meeting is a meeting held in accordance with the detailed provisions of companies legislation. The company's general manager, board members, and, if applicable, members of the corporate assembly, and the company's auditor shall be invited to and are entitled to attend and speak at the general meeting. The chair of the board and general manager are obliged to attend. Moreover, the Office of the Auditor General shall be notified about meetings of the general meeting. Minutes shall be kept from the general meeting. A general manager, board member or member of the corporate assembly who disagrees with a resolution adopted by the party(ies) representing the company's shares, shall demand that his/her disagreement be recorded in the minutes. The rules concerning the minutes and the notification of the Office of the Auditor General form the basis for constitutional control of the administration of the state's ownership.

The provision in the Limited Liability Companies Act/ Public Limited Liability Companies Act section 5-1 means that, through the general meeting, the minister is in a superior position in relation to the board of directors in state-owned limited companies and that he or she can issue instructions which the board is obliged to comply with. These can be general instructions or specific instructions on a particular matter. The alternative to the board respecting instructions issued by the general meeting is for the board members to resign from office.

Another aspect of the Limited Liability Companies Act/ Public Limited Liability Companies Act section 5-1 is that the minister, in his or her capacity as general meeting, has no authority in the company when he or she is not acting as the general meeting.

In partially-owned companies, the procedures described above must be modified because of the consideration that must be given to the other shareholders and the principle of equal treatment enshrined in companies legislation, cf. the Limited Liability Companies Act/ Public Limited Liability Companies Act section 5-21. This means that, even though it is the majority owner, the state cannot favour itself at the expense of the other shareholders in the company. Among other things, the requirement for equal treatment of shareholders limits the opportunity to freely exchange information between the company and the ministry. Limited companies legislation also places clear constraints on the Government's owner dialogue with listed companies. This is not an obstacle, however, to the state raising matters of importance to society as a whole in its owner dialogue with such companies, in the same manner as other shareholders and stakeholders.

### **7.2.3 How owner control is influenced by differences in ownership interests**

As mentioned, as owners, the shareholders (including the state as shareholder) must respect the statutory division of roles between the general meeting/ enterprise general meeting, the board and the day-to-day management of the company. In principle, through organising an enterprise as an independent legal entity, as a state-owned enterprise or as a limited liability company, the state relinquishes its right to directly influence the enterprise's day-to-day operations. Through participation in nomination processes and the election of governing bodies, the stipulation of a company's object and other articles of association, and through stipulating limits for the enterprise at the general meeting, the state as owner can nonetheless exercise influence on the company's operations. This influence will depend on the size of the state's holding.

In the following, it is discussed what an owner can achieve in terms of influence in a company through shareholdings of different sizes, and how this affects owner control.

### 7.2.3.1 Wholly-owned companies

Limited companies which the state owns one hundred per cent are called state-owned limited companies (or state-owned public limited companies). The general provisions of limited companies legislation also apply to state-owned limited companies. In addition, certain special provisions apply that give the state extended control of its ownership, cf. the Limited Liability Companies Act/ Public Limited Liability Companies Act sections 20 – 4 to 20 – 7. Some wholly-state-owned undertakings are organised as state-owned enterprises or companies formed through the adoption of special legislation. For all practical purposes, the state-owned enterprises are regulated in the same manner as state-owned limited companies.

The most important differences between state-owned limited companies and limited companies in general are, firstly, that the general meeting elects the shareholder-elected members of the board of directors even though the company has a corporate assembly, cf. the Limited Liability Companies Act/ Public Limited Liability Companies Act section 20 – 4 subsection 1. Moreover, the King (in Council) is entitled to reappraise decisions made by the corporate assembly or board of directors in matters where important socio-economic considerations may indicate reversal, cf. the Limited Liability Companies Act/ Public Limited Liability Companies Act section 20 – 4 subsection 2. Nor, in state-owned limited companies, is the general meeting bound by the board of directors or the corporate assembly's proposal for the distribution of dividend, cf. the Limited Liability Companies Act/ Public Limited Liability Companies Act section 20 – 4 subsection 4.

State-owned limited companies and their wholly-owned subsidiaries are obliged to have representatives of both sexes on their boards of directors, cf. the Limited Liability Companies Act 20 – 6. A corresponding provision applies to state-owned enterprises and public limited liability companies in general, cf. the Act relating to state-owned enterprises section 19 and the Public Limited liability Companies Act sections 6 – 11a) and 20 – 6. The Office of the Auditor General also has extended control rights in relation to the minister's administration of the state's shareholdings, cf. the Limited Liability Companies Act/ Public Limited Liability Companies Act section 20 – 7.

In wholly-owned companies, the owner can, through decisions at the general meeting, impose obligations on companies that may reduce the company's financial results without this being in conflict with the Limited Liability Companies Act/ Public Limited Liability Companies Act section 5 – 21 (abuse of the authority of the general meeting), cf. also the Limited Liability Companies Act/ Public Limited Liability Companies Act section 6 – 28 (abuse of position in the company etc.).

In limited companies, state-owned enterprises and companies formed through the adoption of special legislation, the state's liability is limited to the equity capital. If the owner goes too far in controlling the enterprise in commercial matters, this may result in creditors filing claims against the state on the basis of the law on liability in damages or pursuant to company law provisions on lifting the corporate veil. For this reason, among others, it is assumed that the enterprises will be compensated through separate allocations if they are ordered to carry out investments or other business which the board of directors does not find commercially justifiable.

### 7.2.3.2 Partially-owned companies

When the state owns a company together with other shareholders, companies legislation imposes limitations on the type of resolutions that the general meeting can adopt, cf. the Limited Liability Companies Act/ Public Limited Liability Companies Act (ASL/ASAL) section 5 – 21 (abuse of the authority of the general meeting). In principle, there are therefore clear limits on the political objectives that can be furthered through owner control in partially-owned companies.

In NOU 2004:7 page 33, the Committee on State Ownership sets out the rules relating to the protection of minority interests:

«In most companies in which it has ownership interests, the state is the dominant owner. Despite its dominant position, the state cannot exercise its ownership in companies without taking the minority interests into consideration. The Limited Liability Companies Act's provisions on the protection of minority interests are particularly relevant to the state as part-owner. The purpose of these provisions is to safeguard the minority's rights in relation to the majority. The limited liability companies acts contain a number of provisions that give a smaller proportion of the company's shareholders influence over and above the influence that follows from the majority principle. The main principle is ASL/ASAL section 5 – 21, which prohibits the general meeting from adopting a resolution that is capable of giving some shareholders an unreasonable advantage at the expense of the other shareholders or the company. The reason why this provision may be relevant to the state is that the state's ownership may be justified on other grounds than commercial ones. The state may therefore have preferences that deviate from those of the other shareholders. Whether the realisation of other state objectives constitutes such an unreasonable advantage in relation to the other shareholders in the company, must be based on an overall assessment in which consideration must be given to «the scope of the advantage, the company's position and the circumstances otherwise<sup>7</sup>».

<sup>7</sup> The wording is a translation of the wording in Mads Henry Andenæs: *Aksjeselskaper og Allmennaksjeselskaper*, p. 238.

Depending on the size of the state's holding, it will nonetheless be possible to further a number of important objectives, such as ensuring that head office functions remain in Norway, control of natural resources etc.

**The following ownership thresholds are central in limited companies legislation:**

**9/10**

If one of the shareholders owns more than nine-tenths of the share capital and the votes in a limited company, the majority owner in question can squeeze out the other shareholders in the company.

**2/3**

A holding of more than two-thirds of the share capital ensures control over decisions that require a corresponding majority pursuant to companies legislation. Decisions to amend a company's articles of association require at least two-thirds of the votes/shares. The same applies to decisions on merger or demerger, decisions to increase or reduce the share capital, the taking up of convertible loans, decisions to convert the company and decisions concerning dissolution. This is a key threshold if it is important for the state to ensure control of such decisions.

**1/2**

A holding of more than half the votes ensures control of decisions that require a simple majority at the general meeting. Such decisions include approval of the annual accounts and decisions to distribute dividend. The election of members of the board of directors and corporate assembly also requires a simple majority. If a corporate assembly has been established, however, it is this body that elects the board of directors.

**1/3**

A holding of more than one-third of the votes and capital results in so-called negative control of decisions that require a majority of two-thirds. Such a holding ensures that the shareholder can block important decisions such as moving the head office, increasing the share capital, amendment of the articles of association etc., cf. the section on a two-thirds majority.

## **7.3 Equal treatment with respect to information and rules for inside information**

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The state's administration of its ownership is exercised within the limits set out in legislation relating to the stock exchange and securities, not least in connection with the consideration of equal treatment of shareholders. Pursuant to the Stock Exchange Regulations section 23-8 first paragraph, a company must not unreasonably discriminate between its shareholders. The ministry will therefore not normally receive more information than other market players.



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However, a company may have a legitimate need to provide some shareholders, and major shareholders in particular, with more information than is otherwise available to the other shareholders and the market. This could be the case, for example, in connection with preliminary discussions about a forthcoming capital increase, negotiations about a merger, a decision on demerger and similar decisions which, pursuant to the Public Limited Liability Companies Act, require the same majority as for an amendment of the articles of association. The shareholders who receive such information will be subject to the general prohibition on trading in section 2-1 until the information has been made public or generally known in the market.

Pursuant to the Stock Exchange Regulations, a company is obliged to obtain non-disclosure declarations and stand-still declarations when such inside information is shared with third parties, cf. the Stock Exchange Regulations section 5-1 ("stand-still declaration"). Notification about such matters must be sent to the stock exchange by the issuing company. The declaration is only sent to the stock exchange on request.

As a result of the state's various authority roles, the state may be in possession of inside information that neither the company nor the owner is acquainted with. Civil servants, in particular, may have inside information about so-called "other matters", among other things, in connection with work on the budget (direct and indirect taxes), the stipulation of general framework conditions (licences etc.) or the processing of individual decisions of significance to the enterprise in question. In the case of transactions which include listed companies and in advance of any stock exchange launches, it must be clarified whether the state, as a result of its various authority roles, is in an insider position.

A person who has inside information has a duty of non-disclosure, and he or she must not disclose such information to a third party except in cases where the information is given in connection with the tasks that normally fall within the duties, profession or office of the person in question. Inside information must be restricted to persons who have a particular need for the information since the risk of leaks increases with the number of persons who have become acquainted with the information. Lists must be kept of persons who receive price-sensitive information. The duty of non-disclosure normally applies until the inside information is publicly available or generally known in the market or until it has lost its topicality and can no longer be deemed to be relevant to the share price.

## 7.4 Public subsidies

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In principle, the EEA Agreement is neutral with respect to public and private ownership, cf. articles 125 and 59 (2). At the same time, the prohibition against public subsidies in the EEA Agreement's article 61 (1) also applies to public enterprises. This sets limits on the Government's opportunity to emphasise non-commercial considerations in its exercise of ownership. In order to decide when public funds injected into an enterprise constitute a public subsidy, the EU Court and the EU Commission have developed the so-called market investor principle. If the public injects capital on other conditions than it is assumed that a comparable private investor would have stipulated, then in principle this constitutes a public subsidy. This means that the state must require a normal market rate of return on capital injected into an enterprise that operates in competition with others. EFTA's surveillance authority monitors compliance with the state subsidy regulations in Norway.

If the state orders a company to make investments or carry out other measures that the board of directors does not find commercially justifiable, it is assumed that the company must be compensated through separate allocations. Such allocations must be made within the limits that follow from the regulations on public subsidies. The room for manoeuvre with respect to giving compensation to enterprises on which special tasks of a non-commercial nature are imposed is limited by the EEA Agreement, and, in each individual case, it must also be considered whether and how such tasks can be compensated. Operating subsidies for enterprises exposed to competition are as a rule prohibited pursuant to the EEA Agreement.

## 7.5 Freedom of information

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In Norway the principle of freedom of information applies to the public administration, cf. Act no. 60 of 19 June 1970 on freedom of information in the public administration. A new Freedom of Information Act has now been passed. It is expected to enter into force on 1 July 2007 or 1 January 2008. Transparency increases trust in state ownership. The principle that the general public has right of access to case documents in the public administration is now enshrined in Norwegian law and practice, and it is regarded as a fundamental democratic principle. The main rule in the Freedom of Information Act is that the public administration's documents shall be public. Even though a document can be exempted from public access pursuant to the provisions of the Act, it shall nevertheless be considered whether it shall be made public in whole or in part (maximum public access). Access should be granted as long as there are no decisive objections in the form of reasonable grounds for refusing access.



In relation to the administration of ownership, it is possible and sometimes necessary to exempt certain documents from public access. Among other things, this may apply to price-sensitive information and documents with a commercial confidential content. There is also a requirement for delayed public access in matters which the Office of the Auditor General has under consideration. Such exemptions shall not, however, be used more than necessary.

## 7.6 The state's financial management regulations

Section 10 of the Regulations for financial management in the state, adopted by the Ministry of Finance on 12 December 2003, states that:

"Entities with overriding responsibility for state-owned limited companies, state-owned enterprises, companies formed through the adoption of special legislation or other independent legal entities which the state owns in whole or in part, shall draw up written guidelines for how the management and control authority shall be exercised in relation to each company or groups of companies. A copy of the guidelines shall be sent to the Office of the Auditor General.

Within the bounds of current laws and regulations, the state shall administer its ownership interests in accordance with overriding principles for good corporate governance, placing particular emphasis on ensuring:

- a) that the chosen form of incorporation, the company's articles of association, financing and the composition of its board are expedient in relation to the company's object and ownership
- b) that the exercise of ownership ensures equal treatment of all owners and underpins a clear division of authority and responsibility between the owning entity and the board of directors
- c) that the objectives set by the company's management are achieved
- d) that the board of directors functions in a satisfactory manner.

Management, follow-up and control, and pertaining guidelines shall be adapted to suit the state's ownership interest, the distinctive nature, risk and materiality of the company."

Pursuant to the state's financial management regulations, target rates of return shall be set for companies in which the state has an ownership interest. The regulations require the ministries to follow-up whether the stipulated targets for the companies are attained. In this context, the ministries stipulate required rates of return and a dividend policy

which, together with other parameters, such as comparative analyses with other companies, are utilised as the basis for following up the companies' performance.

Pursuant to the requirement in section 10 of the Financial Management Regulations, the ministries shall adopt guidelines for the administration of the state's ownership interests by the ministry in question.

## 7.7 Corporate governance principles

Good corporate governance is very important in terms of the country's overall economic efficiency and competitiveness.

The principles for good corporate governance require, among other things, the clarification of roles, and they also ensure orderliness in decision-making processes. Good corporate governance reduces an enterprise's risk. This is very important in terms of ensuring that the market has confidence in a company, and thus also in terms of the company's capital costs. Long-term value creation is best achieved through good open processes between companies and their owners in which the parties are conscious of their respective roles and responsibilities.

The state owns a significant proportion of society's finance capital, and companies in which the state has an ownership interest account for a significant part of the Norwegian capital market and value creation in Norway. The manner in which the state acts as owner is therefore of great importance in terms of the public's and investors' trust in the Norwegian capital market. As is the case with private companies, both public undertakings and publicly-owned companies must continually adapt to changing requirements and circumstances. The objectives and strategies for the individual companies must therefore be developed in step with changes in society as a whole. There is also established practice in this context. Successful, large-scale structural change in a number of wholly and partially-owned companies which were previously part of the public sector show that the Norwegian state has proved its ability to adapt.

### 7.7.1 The state's principles for good ownership

As stated in White Paper no. 13 (2006-2007), the state has adopted a set of paramount principles for good ownership. These principles apply to all state companies, whether they are wholly or only part state-owned. The principles are in accordance with generally accepted principles for corporate governance. The principles address important issues such as equal treatment, transparency, independence, composition of the board of directors and the board's role etc.

### **The state's principles for good ownership:**

- 1 Shareholders shall be treated equally.
- 2 There shall be transparency in relation to the state's ownership of the companies.
- 3 Decisions and resolutions by the owner shall be made/passed at the general meeting.
- 4 The state will, if applicable together with other owners, set performance objectives for the companies; the board of directors is responsible for the objectives being attained.
- 5 The capital structure in the companies shall be adapted to the objective of the ownership and the company's situation.
- 6 The composition of boards of directors shall be characterised by competence, capacity and diversity based on the distinctive nature of each company.
- 7 Remuneration and incentive arrangements should be designed so that they promote value creation in the companies and are perceived as being reasonable.
- 8 On behalf of the owners, the board of directors shall have an independent control function vis-à-vis the company's management.
- 9 The board should have a plan for its work and should work actively on building its own competence. The board's work shall be evaluated.
- 10 The company shall be conscious of its social responsibilities.

### **7.7.2 The Norwegian Code of practice for Corporate Governance**

On 28 November 2006, the Norwegian Corporate Governance Board (Norsk Utvalg for Eierstyring og Selskapsledelse (NUES)) presented a revised version of the Norwegian Code of Practice for Corporate Governance. NUES consists of representatives of various interest groups for owners and issuers of shares on the stock exchange. The following nine organisations established NUES and endorse the Code of Practice: the Norwegian Shareholders Association, the Norwegian Institute of Public Accountants, the Institutional Investor Forum, the Norwegian Financial Services Association, the Norwegian Society of Financial Analysts, the Confederation of Norwegian Enterprise, the Norwegian Association of Private Pension Funds, Oslo Børs and the Norwegian Mutual Fund Association. A working group consisting of representatives of the above nine organisations was responsible for the Code of Practice until autumn 2005. The nine organisations then set up NUES. The job of this board is to continually update the Code of Practice. The state, represented by the Ministry of Trade and Industry, has taken part in the work through its participation in the Institutional Investor Forum.

<sup>7</sup> Kilde: [www.nues.no](http://www.nues.no)

The purpose of the Code is to contribute to the highest possible value creation in listed companies in the best interests of shareholders, employees, other stakeholders and other public interests. The Code is intended to contribute to strengthening confidence in Norwegian companies and in the Norwegian stock market. Oslo Børs has introduced a requirement that listed companies must prepare an annual statement in accordance with the Code of Practice that is based on the principle of «comply or explain». This means that companies must either comply with the individual items in the Code of Practice or explain why they have chosen another solution. The recommendation addresses matters such as equity, dividends, equal treatment, the holding of general meetings, the work of the nomination committee and the composition of the board of directors and corporate assembly, remuneration, information etc.

**The Norwegian Code of Practice for Corporate governance deals with the following areas:<sup>8</sup>**

- 1 Statement on corporate governance
- 2 Business
- 3 Equity and dividends
- 4 Equal treatment of shareholders and transactions with close associates
- 5 Freely negotiable shares
- 6 General meetings
- 7 Nomination committees
- 8 Corporate assembly and board of directors: composition and independence
- 9 The work of the board of directors
- 10 Risk management and internal control
- 11 Remuneration of the board of directors
- 12 Remuneration of the executive management
- 13 Information and communications
- 14 Takeovers
- 15 Auditor

**7.7.3 OECD's principles and guidelines**

In the 1990s, the OECD established a working group for the privatisation of state companies. From 1999, the group's remit was extended to also include the governance of ownership of state-owned assets. It has been important to develop better understanding for the state's different roles – as political authority, control body and owner – as part of the development of democracy in certain countries. In many OECD countries, it has been seen as expedient to establish a standard for good practice for such governance. Good governance of state companies results in better financial development through an increase in productivity, improved profits, efficiency gains and increased competitiveness. By facilitating increased access to capital for state-owned businesses (both external

<sup>8</sup> The Ministry of Trade and Industry has translated the guidelines into Norwegian. They are available at [www.nhd.no](http://www.nhd.no).

capital and equity), a more transparent and efficient utilisation of resources is achieved that promotes profitable investments and the creation of jobs. Measures for good corporate governance help to improve financial reporting and to improve profits in these companies as well as increasing the job security of employees.

The guidelines that were drawn up in 2005 supplement the OECD's general recommendations on corporate governance. The guidelines have six main items. The comments on the guidelines contain a number of recommendations based on administrative practice and experience in certain countries as well as discussions in the working group in the OECD. Through participation in the working group, the Ministry of Trade and Industry has made an active contribution to the drafting of the OECD's new guidelines. Norwegian practice for the administration of the state's ownership largely follows the OECD's recommendations.

The working group will now spread information about and discuss the guidelines in the OECD countries, and also in some countries that are not members of the OECD. Non-governmental organisations have also been established which work on these issues. The World Bank uses the recommended guidelines as a guide in countries in which it is involved. The programme for 2007-2008 entails following up the guidelines through discussing measures that can improve financial performance in state-owned companies, help provide the companies with better board members and result in increased transparency and better information about the administration of state-owned companies and their operations.

## 7.8 Transparency about ownership and predictability

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The fact that the state is open and clear about the objectives and expectations for state ownership can form the basis for more active, value-creating ownership. Among other things, it will make it easier to formulate expectations and assess the companies' performance. It will also be easier for the companies to define their main tasks and to know when the owner's involvement is required.

Transparency and predictability increase confidence in state ownership. Transparency about the state's ownership is important both for democratic reasons and because the state wishes to continually measure performance as part of the professional exercise of its ownership.

# 7

In Norway, we practice the principle of freedom of information in public administration. The possibility of public access, and thereby for the public to learn about, influence and control the administrations' activities, helps to increase confidence in the public administration. The right of access will also contribute to ensuring that public debate can be conducted on as informed a basis as possible. A high degree of transparency can thus limit possible misunderstandings relating to the state's exercise of its ownership and increase predictability, which in turn can have a positive effect on the valuation of the state's shares.

All important matters relating to the companies that affect the relationship between the Storting and the Government are discussed as they arise in documents presented to the Storting. Typically, these are matters that concern changes in the state's ownership interest, matters that have budgetary consequences or that are of particular political interest, including the owner's strategy for wholly-owned companies. In addition, for companies that are obliged to carry out sectoral policy tasks, it may be necessary to impose special constraints on the companies in connection with their statutory responsibilities and priorities.

# THE RELATIONSHIP BETWEEN THE BOARD OF DIRECTORS, THE MANAGEMENT AND THE SHAREHOLDERS

One challenge represented by long-term ownership is the risk of being too patient and too passive in relation to a company's management. Passive ownership can result in dominance by a company's management, and in the company being managed in accordance with goals that are not those of the owners. Good involvement by the state as owner requires the state to be active in terms of the positions it adopts as owner. White Paper no. 13 (2006-2007) clearly states that the state shall be as active and professional in the exercise of its ownership as good private owners are with corresponding ownership. This kind of active ownership must be exercised within the framework of recognised rules for good corporate governance. Three areas are of particular importance to such active follow-up of ownership:

- Follow-up of the business's finances in the broadest sense
- Clarification of and openness about the state's objectives for its ownership
- Election of members of the board and corporate assembly

## 8.1 Contact with companies

The responsibilities of the owning ministry involve following up companies' financial performance and development in other respects. As part of this follow-up, the ministries hold regular contact meetings with the companies' managements. The topics raised include a review of financial developments, communication of the state's expectations with respect to returns and dividends or information about strategic matters relating to the companies. Such one-to-one meetings with a company's management are usual between limited companies and major investors. The meetings take place within the limits set out in companies and securities legislation, not least with regard to the consideration of equal treatment of shareholders.

The limits on owner control do not constitute an obstacle preventing the state, or other shareholders, from raising matters at meetings which the company should consider in connection with its operations and development. The opinions expressed by the state at such meetings should be seen as input to the company's management and board of

directors. The board of directors is responsible for managing the company's assets in the best interests of all its shareholders, and it must make concrete assessments and decisions. Matters that require the owners' support must be raised at the general meeting and be decided through shareholder democracy in the ordinary manner.

In companies which have investor relations (IR), IR acts as a contact point for ongoing communication between the state and the company. Through IR, the owner receives information about the matters relating to the company with which the shareholder is concerned.

As a shareholder, the state does not normally have access to more information than is publicly available to other shareholders. In special circumstances in which the state's participation is required in order to enable the implementation of, for example, a merger, demerger or similar transactions, and which require that the government obtains the consent of the Storting, it will sometimes be necessary to give the ministry inside information. In such cases, the state is subject to the normal rules for the handling of such information.

## 8.2 The board of directors' responsibilities

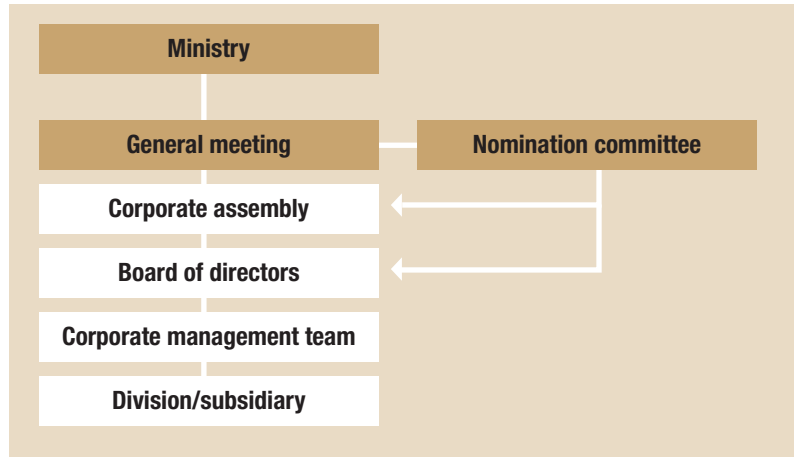
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The state emphasises compliance with the provisions of the Limited Liability Companies Act on the relationship and division of formal competence between the shareholders, board of directors, corporate assembly and the company's day-to-day management.

The management of the company is the responsibility of the board of directors and general manager. This means, among other things, that it is not the minister's responsibility as manager of the state's ownership interest to make decisions that concern the running of the company or that concern the detailed organisation of the company within the framework stipulated under company law. This also applies to matters of an unusual or controversial nature. The development and restructuring of a company's operation and activities, the assessment of major projects and long-term strategy are important matters for the board of directors and the company's management. The board of directors is also responsible for appointing and, if necessary, dismissing the general manager. The board and general manager must exercise their management on the basis of the company's and the owner's interests within the general and particular framework which the Storting has stipulated for the company. In their management of the company, the individual board members and general manager are personally liable in damages and may be subject to criminal prosecution.



*The state is represented at general meetings and on nomination committees, but not on the board of directors or corporate assembly.*



Through the general meeting, the shareholders exercise supreme authority in the company. It is a precondition that the board of directors and management have considerable freedom of action with respect to the management of the company and that, in general, the shareholders should not intervene in matters that are the responsibility of the board of directors or the company's management. This requires that the board of directors furthers the joint interests of the shareholders in such a manner that the state as shareholder is not forced to intervene through the general meeting. Such reciprocal awareness about the roles involved is an important prerequisite for the so-called "Hydro model", which has formed the basis for the exercise of the state's ownership of listed companies. The main principle is that the state shall exercise its ownership through preparations for and decisions made at the general meeting. A key point has been binding participation in nomination committees with a view to ensuring professional, independent and competent governing bodies which work on behalf of all shareholders and for the best interests of the whole company. The model has contributed to long-term value creation by enabling the companies to operate professionally and forcefully in their industries.

### 8.3 The election of the board of directors

In light of the division of roles between the owner and the limited company/ state-owned enterprise, the boards and corporate assemblies of the individual companies have considerable responsibility.

In listed companies, board members are normally nominated by nomination committees. As a rule, the state wishes to be represented on nomination committees in which the state, in cooperation with representatives of the other shareholders, endeavours to arrive at the best possible composition of the company's governing bodies.

As discussed in White Paper no. 13 (2006-2007), it is also important for wholly state-owned companies to have good procedures for work on the appointment of boards of directors. The Ministry of Trade and Industry has therefore drawn up instructions for preparations for elections in the companies administered by the Ministry. Pursuant to the instructions, the work shall be organised in an internal nomination committee for each individual company. The nomination committee prepares a recommendation for the election of members and a remuneration proposal in accordance with more detailed rules for case processing.

Through its representatives on nomination committees, the state will ensure that the boards of directors represent a diversity of competence and that board members have sufficient capacity to perform the duties of their office. The boards of large companies must also include representatives who have an understanding of and insight into the workings of society. What constitutes an appropriate composition of the governing bodies varies with the nature of the business and the owners' objectives for the company. Active industrial ownership requires a combination of market knowledge, business insight and drive. For the state as an owner it is important that the companies have boards with industrial and financial competence that can effectively supervise operations. The boards shall also be responsible for the companies' work on strategy. Good understanding of the company's role in society and the importance of the individual company to overall industrial development is therefore important. Competence and independence in relation to the company's management are important requirements for the board of directors. It must also be a requirement of the board that it provides wide-ranging and open information about the company's operations to shareholders and other groups of stakeholders. When electing boards of directors, the state will also consider the work done by the boards and whether strategic challenges facing the companies indicate that changes are required. Boards of directors and corporate assemblies must also have a balanced gender distribution.

Active politicians, including members of the Storting, government ministers and state secretaries, as well as civil servants whose area of responsibility includes regulatory or supervisory powers in relation to a company, or who have matters under consideration of material importance to a company, shall not be elected as board members. Among other things, this is in order to avoid problems of partiality and conflicts of interest, which could

arise when the interests of the shareholders as a whole are not fully in harmony with the interests of the state.

The state does not have its own board members in partially-owned companies. It is presumed that all board members will endeavour to further the company's and the shareholders' joint interests.

As stated in White Paper no. 13 (2006-2007), the state expects the boards of all companies in which it has an ownership interest to assess their own work. The board's self-assessment should include an assessment of the composition of the board in relation to the company's competence requirements and of the manner in which the board performs, both individually and as a group, in relation to the objectives set for its work. The state will also carry out its own assessments. In the event of failure to attain set objectives or lack of competence, the state shall play an active part in the work of changing the composition of the board of directors.

## 8.4 Period of office and remuneration

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Boards of directors are normally elected at the same time and for a period of office of two years in accordance with the Public Limited Liability Companies Act section 6 – 6.

Normally, it is the nomination committee that presents a proposal for remuneration to the general meeting. The remuneration should reflect the board's responsibility, its competence, the time spent and the complexity of the business. The state's fundamental attitude to the remuneration of board members is that board members should receive reasonable remuneration that is appropriate to the responsibility involved in holding the office. The remuneration of members of the board shall be moderate and on a par with that paid by corresponding companies.

Board members shall not be paid performance-based or variable remuneration for their office as board members. Among other things, this has to do with the responsibility board members have, not just for the return provided by the company, but also for the risk involved in the business. Being in a position to take risks with other people's capital in a manner that has little personal downside, but considerable personal upside, is precisely the type of situation board members have been elected to curb or keep in check.

## APPENDIX

### **Guidelines for state ownership: Policy on the remuneration of leading personnel**

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Guidelines were adopted in September 2001 for the terms of employment of leading personnel in wholly state-owned enterprises and companies. In accordance with the amendments to the Public Limited Liability Companies Act, cf. Proposition no. 55 (2005-2006) to the Odelsting, it has been decided that, with effect from the annual general meetings in spring 2007, the remuneration of leading personnel shall be considered by the annual general meetings.

The intention of the new guidelines is to communicate the factors that the state will emphasise in its voting when an annual general meeting considers the remuneration of leading personnel. The guidelines also reflect the state's attitude to these matters in companies in which the stipulation of remuneration of leading personnel is not a matter for the annual general meeting.

The guidelines apply to enterprises and companies in which the state has a direct ownership interest, but not to companies in which the state has an indirect holding or portfolio investments, for example through Argentum Fondsinvesteringer AS and the Government Pension Fund. The guidelines apply to leading personnel, cf. Proposition no. 55 (2005-2006) to the Odelsting.

The guidelines will replace the existing Veiledende retningslinjer for ansettelsesvilkår for ledere i heleide statlige foretak og selskaper (Guidelines for terms of employment for leading personnel in wholly state-owned enterprises and companies – in Norwegian only), adopted on 3 September 2001 and subsequently amended on 28 June 2004. These guidelines do not alter the board of directors' responsibilities or the division of roles between the general meeting and the board of directors.

The following guidelines are issued with effect from 8 December 2006:

## **1. Definitions**

**1.1.** By leading personnel is meant the general manager and other leading executives, cf. Proposition no. 55 (2005-2006) to the Odelsting, which refers to the provisions of the Accounting Act and Public Limited Liability Companies Act on “leading personnel”.

**1.2.** By compensation arrangement in these guidelines is meant a remuneration package consisting of one or more of the following elements: Salary, variable pay (bonus, share programmes, options and the like) and other benefits (pension benefits, compensation on termination of employment, fringe benefits and the like).

**1.3.** By options as a form of remuneration is meant the right to purchase shares at a pre-agreed price. The guidelines equate option agreements in which a gain is paid directly without any prior physical transactions taking place (synthetic options) with ordinary options, cf. the Accounting Act’s requirements for reporting.

**1.4.** By share programme is meant arrangements involving direct ownership of shares without the prior existence of an option. This can involve the employee receiving shares in payment, discounts on share purchases or a bonus payment contingent on the purchase of shares. The guidelines do not apply to share savings programmes for all employees.

**1.5.** Compensation on termination of employment in this context can consist of pay after termination of employment, other financial benefits and payment in kind.

## **2. The main principles for the adoption of compensation arrangements**

**2.1.** The remuneration of leading personnel in companies under full or partial state ownership shall be competitive, but the companies shall not be wage leaders compared with other corresponding companies.

**2.2.** The chief element in compensation arrangements should be the fixed salary.

**2.3.** Compensation arrangements must be designed to ensure that unreasonable remuneration is not paid as a result of external factors that the company’s management is not in a position to influence.

<sup>10</sup> [www.stortinget.no](http://www.stortinget.no)

<sup>11</sup> [www.nues.no](http://www.nues.no)

**2.4.** The individual elements in a pay package must be considered together, so that the fixed salary, any variable pay and other benefits, such as pensions and compensation on termination of employment, are seen as constituting a whole. The board of directors must have an overview of the overall value of the compensation stipulated for each individual executive.

**2.5.** It is the responsibility of the whole board to adopt the guidelines for the remuneration of leading personnel. The remuneration of the general manager shall be adopted by the board of directors.

**2.6.** The board must ensure that the remuneration of leading personnel does not have unfortunate effects for the company or undermine its reputation.

**2.7.** The remuneration for the work of the board of directors must not be performance-based or variable.

**2.8.** Members of the company's management shall not receive special remuneration for holding office as board members in other companies in the same group.

**2.9.** Agreements made before these guidelines entered into force may continue to apply.

### **3. Options**

Options and other similar arrangements shall not be employed by companies in which the state has an ownership interest.

### **4. Share programmes**

Share programmes may be used if they are particularly suitable for achieving long-term goals for the development of the company, provided that conditions in the industry are suited to the use of such arrangements. Share-based remuneration must be designed to ensure that it stimulates long-term efforts for the company, and it should involve a lock-in period of at least two years.

## **5. Variable pay**

Any variable pay must be based on the following principles:

- 5.1.** There must be a clear connection between the goals on which the variable pay is based and the objectives of the enterprise or company.
- 5.2.** Variable pay must be based on objective, definable and quantifiable criteria.
- 5.3.** The criteria must be based on factors which the management is in a position to influence.
- 5.4.** The arrangement should be based on several relevant measurement criteria.
- 5.5.** Arrangements involving variable pay must be transparent and readily comprehensible. When explaining the arrangement, it is important that the expected and maximum payment to each individual participant in the programme is made clear.
- 5.6.** The scheme must be of limited duration.
- 5.7.** Unless special circumstances dictate otherwise, the total variable pay in an individual year should not exceed the fixed salary for six months.

## **6. Pension benefits**

- 6.1.** The terms and conditions for pensions shall be on a par with those of other employees in the company.
- 6.2.** If a lower retirement age is agreed than the retirement age of 67 years that applies in the National Insurance scheme, the retirement age should not as a rule be lower than 65 years.
- 6.3.** Agreements on pensions should be based on the same pension earnings period that applies to other corresponding personnel in the company.
- 6.4.** Pension entitlements earned in other jobs should be taken into account.
- 6.5.** The total percentage compensation should not exceed 66 per cent of salary. If a lower retirement age than 65 is agreed, the pension benefits should be lower.

**6.6.** If the undertaking is wholly or partially funded via the national budget, the total pension basis should not exceed 12 times the National Insurance basic amount unless competitive considerations so dictate.

**6.7.** Pension payments shall be adjusted in step with National Insurance pensions and not on the basis of the terms of remuneration for the position in question.

**6.8.** The board of directors must have a full overview of the total cost of pension agreements before they are entered into.

## **7. Compensation on termination of employment**

**7.1.** Compensation on termination of employment can be agreed in a prior agreement in which a top executive relinquishes the protection against dismissal enshrined in the provisions of the Working Environment Act. Compensation on termination of employment should not be used in connection with voluntary resignation unless there are particular reasons for doing so.

**7.2.** Compensation on termination of employment should not exceed 12 months' fixed salary in addition to salary during the period of notice.

**7.3.** If the person in question is appointed to a new position or receives income from a business of which he or she is an active owner, compensation on termination of employment shall be reduced by a corresponding amount calculated on the basis of the person's new annual income. Such reduction cannot take place until the normal period of notice has expired.

**7.4.** Compensation on termination of employment can be withheld if the conditions for summary dismissal are met, or if, during the period in which compensation on termination of employment is paid, irregularities or dereliction of duty are discovered that can result in liability in damages or in the person in question being prosecuted for a criminal offence.



## REFERENCES

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- White Paper no. 13 (2006-2007) and Recommendation no. 163 to the Storting (2006-2007)<sup>10</sup>
- Norwegian Code of Practice for Corporate Governance<sup>11</sup>
- OECD Principles for Corporate Governance
- OECD Guidelines on Corporate Governance of State owned Enterprises.

<sup>10</sup> [www.stortinget.no](http://www.stortinget.no)

<sup>11</sup> [www.nues.no](http://www.nues.no)







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