

The Autorité de la concurrence takes note of the Illumina / Grail judgment by the Court of Justice of the European Union

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The Autorité de la concurrence takes note of the Illumina / Grail judgment by the Court of Justice of the European Union and remains committed to tackle mergers that may harm competition in innovative sectors.

The Autorité de la concurrence takes note of the judgment of the Court of Justice of the European Union issued today in the framework of joint cases C-611/22 P and C-625/22 P Illumina / Grail v Commission. With this judgment, the Court of Justice annuls the General Court ruling dated 13 July 2022 along with the decision by the European Commission of 19 April 2021 which had agreed – following a referral request by the Autorité de la concurrence – to review the acquisition of Grail by Illumina pursuant to Article 22 of the EU Merger Regulation. Several Member States of the European Union and the European Economic Area (Belgium, Greece, Iceland, the Netherlands and Norway) had joined France's referral request.

For several years now, the Autorité de la concurrence has been using all the instruments at its disposal to effectively tackle acquisitions that undermine competition in the fields, for example, of digital innovation, healthcare or biotech. As of 2017, following a public consultation, the Autorité de la concurrence identified the aforementioned Article 22 as a relevant and proportionate tool to apprehend, on the basis of established legislation, mergers that fall below the French and European notification thresholds and that inhibit innovation and strengthen or consolidate the market power of certain players in innovative sectors.

These concerns are more relevant than ever to maintain the dynamics of innovation in our economy, as the Autorité de la concurrence reiterated last June in its [opinion 24-A-05](#) on the competitive functioning of the generative artificial intelligence sector.

In this context, the Autorité de la concurrence will carefully examine the Court of Justice's judgment and determine the existing or necessary tools to ensure that no merger, including those that are not subject to prior notification, would harm competition on the French territory.

To this end, the Autorité de la concurrence intends to make full use of the existing instruments, whether based on Articles 101 and 102 of the Treaty on the Functioning of the European Union or on equivalent provisions under national law.

The Autorité de la concurrence, while taking care to preserve legal certainty for businesses, will also be considering whether to strengthen the merger control instruments at its disposal under national law to apprehend potentially problematic mergers that do not meet the notification thresholds currently applicable in France.

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