

The market for street advertising furniture

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The Conseil de la concurrence fines the Decaux Group 10 million Euros for breach of injunctions.

Context of the case

The *Conseil de la concurrence* has penalized the Decaux Group for breaching certain injunctions handed down against it in 1998 (Decision n° 98-D-52 of 7th July 1998), and has imposed fines totalling 10 million Euros on the Group's companies.

In its 1998 decision, the *Conseil* took the view that the companies of the Decaux Group had abused their dominant position in the market for the supply of street advertising furniture. Although on that occasion it did not impose any fines, it handed down a number of specific injunctions requiring the group to cease its abusive practices.

These injunctions ordered the Decaux group:

- to stop offering local and regional administrations wishing to sign contracts with it to include a clause granting the Decaux group company a right of priority for the installation of further street furniture;
- to stop offering local and regional administrations wishing to sign contracts with it to include a clause stating that certain equipment installed during the contract period has a distinct contractual duration from that of the contract;
- to stop offering local and regional administrations wishing to sign contracts with it to include that contracts with local and regional administrations should

contain a tacit renewal clause.

- to inform the local and regional administrations with which the Decaux group has signed contracts of any modifications made to the standard clauses in the contracts it offers.

The *Conseil de la concurrence* observed that the Decaux Group companies had only partially adhered to its injunctions

Firstly, the *Conseil* took the view that the companies of the Decaux Group had failed to fully adhere to the injunction requiring them to abandon the "right of priority", by continuing to include provision in certain contracts for the installation or possibility of installing new street furniture, without submitting to competition.

It also considered that the companies of the Decaux Group had failed to fully comply with the injunction concerning contract periods, since in certain contracts they had included expiry dates for equipment that differed from the expiry date of the contract itself.

Lastly, the *Conseil* observed that the companies of the Decaux Group had failed to implement the terms of the injunction concerning information for local and regional administrations. On the contrary, it found that the companies had given the administrations statements which were false or were intended to deter them from obtaining compensation for the anticompetitive practices observed.

However, the *Conseil* did note that the Decaux Group had complied with the injunction regarding the tacit renewal clause.

Breach of injunctions: a serious practice justifying heavy penalties

Breach of injunctions handed down by the *Conseil* is a particularly serious practice, as indicated recently by the Paris court of appeal in its ruling of 11th January 2005.

In the case in point, the breach of injunctions had the effect of closing down competition in the market for the supply of street advertising furniture to local and regional administrations, allowing the Decaux Group to keep holding a virtual monopoly in the market concerned.

Consequently, the *Conseil* has decided to impose the following fines:

- on the company JC Decaux SA, a fine of 6,400,000 Euros;
- on the company JC Decaux Mobilier Urbain, a fine of 2,750,000 Euros;
- on the company SOMUPI, a fine of 250,000 Euros;
- on the company SOPACT, a fine of 170,000 Euros;
- on the company SEMUP, a fine of 430,000 Euros;