

Institutional ecosystem

Autorité de la concurrence, DGCCRF, sector-specific authorities (Arcep, Arafer, CRE, CSA), etc. What are the respective powers of these authorities? How do they work together? Here is an overview of these administrations and regulatory authorities.

Since the 2008 reform (LME Law of 4 August 2008), the main tasks involved in regulating competition (fighting anticompetitive practices, advisory activity, merger control) have been concentrated within the Autorité de la concurrence, which was also given its own investigative powers. However, it still works closely with the DGCCRF, which in particular passes on the evidence and practices it detects through its local presence.

The Autorité also regularly works with the sector-specific authorities; the French Commercial Code (*Code de Commerce*) requires that they consult each other.

Directorate General for Competition Policy, Consumer Affairs and Fraud Control (DGCCRF)

A department within the Ministry of the Economy, the Directorate General for Competition Policy, Consumer Affairs and Fraud Control (DGCCRF) performs numerous functions in three main areas.

Regulation of market competition

The DGCCRF plays an active role in fighting cartels and abuses of dominant position. Through its activities in the field, it monitors and participates in their detection. In some cases it may provide assistance to the Autorité with dawn raids, and it also looks after the repression of local anticompetitive practices ("microPAC"). It has jurisdiction in unfair commercial practices and restrictive competitive practices.

- **Detection**

The DGCCRF's territorial coverage is essential for detecting breaches of competition law. The Autorité can rely on evidence passed on by the 8 interregional competition investigation brigades (*brigades interrégionales d'enquêtes de concurrence*, BIEC) in metropolitan France and the overseas territories. The DGCCRF regularly sends it evidence and investigation reports. Depending on the scope of the practices (local, national or EU), size of the companies, case interest and its workload, the Autorité either carries out investigations itself or leaves them to the DGCCRF.

97 items of evidence sent to the Autorité de la concurrence in 2018

The DGCCRF generally also monitors competition in all areas of public procurement: public procurement contracts, public service delegations, partnership agreements.

- **Participation in dawn raids**

The Autorité can request assistance from the DGCCRF's regional services to carry out dawn raids (unannounced inspections on company premises), especially when the companies are in the regions.

- **Handling of local anticompetitive practices**

Since 2008, the DGCCRF has had the power to issue injunctions and reach settlements in the case of local anticompetitive practices (Article L. 464-9 of the French Commercial Code). Its action in this area is important because quickly stopping local anticompetitive practices can be a significant, concrete issue for economic stakeholders and consumers.

If the companies concerned refuse to compromise, the DGCCRF forwards the case to the Autorité, which assesses whether the facts justify a penalty as part of a litigation procedure.

- **Restrictive competitive practices**

The law on restrictive competitive practices enables the Minister of the Economy to act in defence of public economic policy and have practices or contractual clauses affecting the fairness of commercial relations punished by the courts.

This particular power to intervene in contractual relations between private entities ensures the maintenance of commercial relations that are as transparent and fair as possible. Its action aims to protect the proper functioning of the market but also to preserve the balance in commercial relations between suppliers and distributors, or between clients and subcontractors.

For example, in July 2019 it brought the retailer Leclerc before the Paris Commercial Court (*tribunal de commerce de Paris*) for unfair commercial practices (see the [DGCCRF's press release](#)).

The Autorité de la concurrence and the DGCCRF announced in July 2019 that they had committed to enhanced cooperation under a cooperation charter.

Consumer safety

The DGCCRF ensures industrial and food products distributed in France comply with current standards and do not pose a danger to the public.

Consumer protection

The DGCCRF works to ensure compliance on the quality and safety of products and services (rules on the labelling, composition and description of goods, etc.) and takes action over misleading advertising, sham rebates and abuse of weakness.

More information about the DGCCRF

The French Telecommunications and Posts Regulator (*Autorité de régulation des communications électroniques et des postes (Arcep)*)

High speed and very high speed broadband, improved mobile coverage, hertzian audiovisual broadcasting, 5G, opening up of competition in the postal sector or regulation of press distribution... Arcep is the French regulator for electronic communications and postal services.

Set up in 1997 when the telecommunications sector was opened up to competition, to enable new operators to find their place alongside the incumbent operator, the *Autorité de régulation des télécommunications* (ART) became the *Autorité de régulation des communications électroniques et des postes* (Arcep) in 2005. It is responsible for supporting the process of opening these sectors up to competition and for implementing tools to protect competition between the various players in the sector concerned. It has investigative and sanctioning powers.

Arcep is responsible, among other things, for:

- **the regulations applicable to telecommunications and postal operators;**
- **issuing sector-specific opinions to the French government, parliament or other independent administrative authorities, especially the Autorité de la concurrence;**
- settling disputes between two operators on the technical and financial conditions of network access or interconnection.

More information about Arcep

An institutional dialogue

In accordance with the French Code of Postal and Electronic Communications (Code des postes et des communications électroniques), Arcep must seek the Autorité's opinion when it carries out market analyses to determine the operators exerting significant influence on certain product or services markets.

Arcep's President must refer to the Autorité de la concurrence any abuses of dominant position and anticompetitive practices it becomes aware of in the sectors that Arcep regulates. It may also refer any issue within its jurisdiction to the Autorité.

The Autorité de la concurrence must inform Arcep of any referral it receives that falls within Arcep's jurisdiction and seek its opinion on practices referred to it within the postal sector.

Transport regulatory authority (ART)

Arafer, which replaced the Transport regulatory authority (ART) in 2015, supports the opening up of the rail sector to competition and regulates the coach transport market and motorways.

Arafer has broad powers to perform its role, such as extensive investigative and sanctioning powers, which enable it, for example, to temporarily prohibit access to the rail network or to impose fines. In addition, disputes can be referred to ART when the complainant believes it is the victim of unfair treatment, discrimination or any other practice related to access to the rail network.

In the coach transport sector, the launch of any scheduled service with a distance of less than 100 km between two stops must also be reported to it. Coach services of more than 100 km are totally deregulated.

[More information about Arafer](#)

Cooperation in the rail sector

In application of the French Transport Code (Code des transports), abuses of dominant position and practices that hamper competition in the rail transport or road passenger transport sectors or the sector for construction, goods and services contracts on the concessionary motorway network may be referred to the Autorité de la concurrence by Arafer's President.

French Broadcasting Regulator (*Conseil Supérieur de l'Audiovisuel*)

The French Broadcasting Regulator (*Conseil Supérieur de l'Audiovisuel* (CSA)) is the independent administrative authority responsible for regulating the audiovisual sector. Among other things, it ensures respect for and protection of individual rights and freedoms, pluralism, and the economic and technical regulation of the sector.

It is the CSA that, for example, authorises the use of radio frequencies for the broadcast of television or radio channels and guarantees the best reception for the public. It also guarantees that the programmes broadcast comply with current regulations (protection of minors, processing of information, representation of society, etc.).

The French government may ask the CSA to give its opinion on draft laws on audiovisual and draft decrees on the audiovisual sector (e.g. radio and television advertising obligations, broadcast of films, or the independence of producers from broadcasters).

More information about the CSA

A collaborative effort

The Autorité de la concurrence works closely with the CSA. By virtue of Article 41-4 of the Law of 30 September 1986 on freedom of communication, the Autorité seeks the CSA's opinion before deciding

on a case, merger or anticompetitive practices in the audiovisual sector. The CSA may also refer to the Autorité de la concurrence potential anticompetitive practices it has identified within the sector or request from it an opinion on competition and concentration issues it is aware of.

French Energy Regulatory Commission (*Commission de Régulation de l'Énergie*) (CRE)

The French Energy Regulatory Commission (*Commission de Régulation de l'Énergie* (CRE)) was created when the energy markets were opened up to competition; it oversees the functioning of the electricity and gas markets in France.

It has responsibilities in two areas: regulation of the electricity and natural gas networks, to guarantee non-discriminatory access to transmission and distribution infrastructure for users, and regulation of the markets, to guarantee free and fair competition. It therefore supervises the competition between energy suppliers. The regulated retail tariffs for electricity and gas are set by the French government on the basis of the CRE's proposal.

The CRE's Dispute Resolution and Penalties Committee settles disputes between operators and users over access to the public electricity and gas networks and their use. It also applies penalties for breaches of the French Energy Code (*Code de l'énergie*).

More information about the CRE

Complementary responsibilities

The CRE and the Autorité de la concurrence have complementary responsibilities which “protect consumers and guarantee electricity prices that reflect the competitiveness of the production facilities” (Article 7 of the draft law on the new organisation of the electricity market). Whereas the Autorité is responsible for control of anticompetitive practices in the sector, the CRE monitors the coherence of the prices offered by electricity market stakeholders with their economic constraints (particularly regulated access to basic electricity).

The President of the CRE may refer to the Autorité both for an opinion or to report anticompetitive practices in the electricity or gas sectors. The Autorité must in turn inform the CRE of any referral related to the energy sector so that it can comment.