



**2023 ANNUAL REPORT**

**COMPETITION  
WIDE OPEN**

Autorité  
de la concurrence







***“The role of a competition authority is to enforce the rules of the game. Competition is neither the jungle nor survival of the fittest; it is the law of the most deserving.”***

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***“In this Olympic year, the Autorité sees itself more than ever as a referee pushing competitors to go faster, higher and stronger, without cheating or doping.”***



***BENOÎT CŒURÉ***

*President of the Autorité de la concurrence*

***EDITORIAL***

**In this historic year, when Paris is hosting the Olympic Games, you have chosen the link between competition and sport as the theme for your annual report. Can you tell us why?**

The parallels between sport and competition are clear. After all, the word “competition” comes from the Latin “competere”, meaning “to strive together”. Competition drives companies and athletes alike to strive for excellence and give their best, with benefits for both growth and innovation. But in sport, as in the markets, there have to be rules. The referee has an essential role to play in ensuring the proper application of the rules, and must show a red card whenever necessary. In this Olympic year, the Autorité sees itself more than ever as a referee pushing competitors to go faster, higher and stronger, without cheating or doping.

The Autorité de la concurrence also has a long-standing decision-making practice in sports, whether in relation to professional sports clubs or audiovisual rights for sporting events.

**This year is special in more ways than one, as the Autorité has just turned 15. How would you assess its achievements so far?**

First and foremost, I would like to pay tribute to Bruno Lasserre and Isabelle de Silva, who significantly raised the profile of the Autorité through the diversity, innovation and quality of its analyses and decisions. I would like to thank all the staff at the Autorité and the Board members for their commitment, skills and tenacity, which ensure that our investigations and decisions are fair, impartial and free of concessions to often powerful economic interests.

The figures speak for themselves. In 15 years, almost €9 billion in fines have been imposed against anticompetitive practices and 3,229 mergers have been examined, with an estimated gain of €20 billion for the French economy. In its advisory role, the Autorité has been behind a number of reforms that have changed the lives of the French people, from freely organised coach services to car parts and hearing aids.

The Autorité has undergone constant change over the years. We began looking at the digital field at a very early stage. And today we are also focusing on sustainability, without neglecting the “fundamentals” – the fight against cartels, abuses of dominant position, price fixing and online sales bans and, of course, our vital work in the French overseas territories. We have used all the tools at our disposal, from fines and commitments to settlements and injunctions, to adapt to economic realities and act in a timely manner. We are building and improving a work environment that values respect for staff, diversity and inclusion.

“In 15 years, almost €9 billion in fines have been imposed.”



**BENOÎT CŒURÉ**, *President of the Autorité de la concurrence*

More than  
**2,500**  
new notaries  
have established  
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**“The time has come to 'give back' purchasing power to households by tackling the rent-seeking that persists in our economy.”**

**Purchasing power remains a major concern for the French people. What action is the Autorité taking to try and improve the situation?**

The inflationary crisis is largely behind us. While the fall in inflation is mainly due to the slowdown in energy and food prices, and the resolute action of the European Central Bank, we had a role to play during the crisis in ensuring that companies did not take advantage of the situation to raise prices out of line with their rising costs. Such behaviour, which has unfortunately been observed in France as in other countries, carries the risk of an upward spiral in prices and profits. The Autorité has been particularly vigilant in this regard. The Investigation Services have launched several investigations (including dawn raids) in sectors linked to consumer goods, particularly agrifood products, which are currently underway.

The priority given to purchasing power is also reflected in the special attention paid to transport and energy. In the latter sector, the Autorité has issued a number of decisions on anticompetitive practices and, together with the French energy regulator (*Commission de régulation de l'énergie* – CRE), taken a position on the functioning of the electricity market after the scheduled end to regulated access to historical nuclear electricity, on 31 December 2025.

As we emerge from a crisis that has hit households particularly hard, the time has come to “give back” purchasing power by tackling the rent-seeking that persists in our economy. Everyone remembers the reform of the regulated legal professions, enshrined in the 2015 Law for Growth, Activity and Equal Economic Opportunities. As Bruno Le Maire points out in his interview, the example of notaries shows that the reform has been a lever for dynamism, rejuvenation and diversity. Between 2016 and 2023, the number of notaries' offices rose from around 4,400 to around

6,900, while the number of private practitioners increased from nearly 8,300 to nearly 12,200. More than 2,500 new notaries have established offices, many of them self-employed for the first time. The figures are compelling: by the end of 2022, 61% of newly-established notaries were women, compared with 42% before the 2015 law. As another example, our November 2023 opinion on land passenger transport shows that if all players embrace competition, in both freely organised and concession services, we can move away from a Malthusian approach. A surge in the supply of low-carbon transport would improve the daily lives of the French people, while supporting the climate transition.

**“A powerful industrial policy is essential, but it must be European. And it must go hand-in-hand with competition.”**

**How do you view the resurgent debate on the relationship between industrial policy and competition policy?**

Industrial policy is making a strong comeback, against a backdrop of technological change, geopolitical uncertainty and threats to our supply chains. In the political debate, competition policy is often accused of hindering the emergence of European or French champions that could compete with US or Chinese players. However, this is an error in reasoning that could have damaging consequences for the growth of our economy.

First, this reasoning ignores the nature of the United States' technological lead, which owes a great deal to upstream public funding (particularly in defence research), but is part of an eminently competitive rationale. Netflix did not arise from the merger of two existing TV channels, but from an innovative idea (originally, to rent out DVDs by mail order) and an entrepreneurial spirit. This is what we need in Europe! I'm also struck by the determination of President Biden and his administration to inject competition into sectors such as agriculture, transport and healthcare, in the name of economic dynamism and fairness between large and small players.

Second, it ignores the fact that competition is an essential safeguard for the success of industrial policy. Without competition, industrial policy essentially involves subsidising existing companies, to the detriment of diversity of supply and innovation.

Lastly, industrial policy must respect and reinforce the integrity of our single market, which remains one of Europe's greatest assets. The current method, based on massive amounts of State aid, is not helping with this. By the end of 2023, the European Commission had authorised €750 billion in State aid under its temporary framework!

In summary, a powerful industrial policy is essential, but it must be European. And it must go hand-in-hand with competition. Competition authorities must rise to the challenge.

**New technologies are revolutionising many sectors and impacting our economy at an incredible speed. Is the Autorité really ready to take up the challenge?**

The Autorité is well equipped to meet the numerous and varied challenges of the digital age. We can take action effectively and efficiently, thanks to the flexibility of competition law and the toolbox of instruments at our disposal. In 2023, we ordered interim measures against Meta in the online ad verification sector in just six months. We are constantly investing in the future, with sector-specific inquiries that analyse the functioning and competition risks of emerging sectors, such as the cloud in 2023 and generative artificial intelligence (AI) in 2024. It is rather the lack of resources that limits the scope of our intervention.

In the digital field, the competition law toolbox is now supplemented by a powerful instrument, namely the European Digital Markets Act (DMA), whose obligations came into force in March 2024. The DMA regulates the behaviour of major digital platforms (known as “gatekeepers”) regarding a number of their services, as designated by the European Commission. The French Law to Secure and Regulate the Digital Space (SREN), enacted in May 2024, empowers the Autorité to open investigations and assist the



Commission in implementing the DMA. The DMA and competition law are complementary in several respects. On the one hand, the DMA imposes prohibitions *ex ante* while competition law intervenes *ex post* and, on the other hand, the DMA applies to pre-designated players and services while competition law can address more varied behaviours and players.

The Autorité is at the centre of a solid network of cooperation between European national competition authorities, which can investigate on each other's behalf, and at the heart of a national ecosystem comprising the Directorate General for Competition Policy, Consumer Affairs and Fraud Control (DGCCRF), sector-specific regulators and specialised courts. The public is often unaware of our work with other authorities and bodies, but such cooperation is a sure-fire guarantee of efficiency. Coming back to sport, team spirit is the key to victory.

**In terms of AI, you recently published a sector-specific inquiry in June 2024. Can you tell us more?**

The rapid emergence of generative AI requires that we learn from the past. Too often, in the digital field, competition authorities have intervened when markets were already structured around powerful players, or even near-monopolies. So we had to move fast. The Autorité started inquiries *ex officio* in January 2024, and the opinion was published in June. We also had to focus our efforts: the opinion analyses the competition risks (particularly those linked to the presence of large, already powerful players) upstream in the generative AI value chain, i.e. at the design, training and fine-tuning of large language models. Lastly, we

had to be practical and the opinion thus complements the action taken in the field by the Investigation Services, which have already conducted dawn raids in the graphics card sector, which is the "lifeblood" of both AI and cloud computing.

**The Autorité has also been particularly active on the issue of press related rights in recent years and has issued several decisions. Do you consider the debate closed now?**

We were among the first competition authorities in the world to take an interest in value capture in the press sector by major digital platforms. We have issued decisions on online advertising against Google and Meta, as well as decisions on related rights. Between April 2020 and March 2024, we issued four

decisions against Google in the related rights case. While it may be tempting to focus on the €750 million in fines imposed since 2020, the amount of fines is not the most important aspect. Through our decisions, we have built a framework that re-establishes the conditions for fair negotiation between press agencies, publishers and Google regarding the amount of related rights. And it has produced results. Our latest decision also takes into account Google's use of protected press content to train the foundation model of its generative AI service, "Bard", without giving press agencies and publishers the possibility to opt out. Lastly, the decision confirms that the Autorité will always be vigilant in ensuring that companies scrupulously comply with the commitments made.

**What are the priorities and outlook for the Autorité for the months ahead?**

In line with our annual roadmap, our main priorities are long-term: purchasing power (with a particular focus on the fight against high living costs in the French overseas territories), digital technology and sustainability. With regard to sustainability, the Autorité has decided to open the door to companies, which can now consult the General Rapporteur if they have doubts about the compatibility of their projects with a sustainability objective with competition law. To guide interested companies in this respect, we have published a dedicated notice, which is available on the Autorité website.

Internally, the Autorité will continue to take action to foster sustainability, inclusion and diversity, building on our November 2023 roadmap. We will introduce new initiatives on fundamental issues such as equality in all its forms, the fight against sexism and the promotion of diversity.

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**decisions were issued against Google between 2020 and 2024.**



***“Internally, the Autorité will continue to take action to foster sustainability, inclusion and diversity, building on our November 2023 roadmap.”***

In 2024, the Autorité will publish its first internal sustainability roadmap, entitled "Towards a more responsible and sustainable Autorité". We have already made progress in several areas: zero plastic in our internal processes, waste sorting, staff bike storage, and awareness-raising on the environment and resource management. Going forward, I wanted to give a new dimension to our commitment to sustainability, with a three-fold ambition: better consumption, better management and better mobility. The starting point is a first-ever carbon footprint, which is being prepared in-house. Careful attention therefore needs to be paid to the methodology used. Several major trends are already clear: we are too dependent on fuel oil as a heating source, we need to further prioritise the train in our travel policy, and we need to improve the energy performance of our buildings. In 2023, the total greenhouse gas emissions attributable to the Autorité were around 144 Mt CO<sub>2</sub>eq. This is an initial estimate, which needs to be confirmed using a recognised methodology, and then drastically reduced through proactive measures.

***“In the digital field, the competition law toolbox is now supplemented by a powerful instrument, namely the European Digital Markets Act.”***





**“The Autorité de la concurrence has established itself as the ‘competition watchdog’, working to promote consumer purchasing power and the proper functioning of the markets.”**

## INTERVIEW

# BRUNO LE MAIRE

**Minister of the Economy, Finance and Industrial and Digital Sovereignty**

**Minister, this year marks the 15<sup>th</sup> anniversary of the creation of the Autorité in 2009 by the French Law on the Modernisation of the Economy. How would you assess the work of the Autorité de la concurrence since its creation?**

The creation of the Autorité has given France a modern, independent framework for combating cartels and, more generally, anticompetitive practices, with benefits in terms of quality, speed and efficiency. Our country now has a dual system for addressing practices that affect the French people in their daily lives, through the actions of Directorate General for Competition Policy, Consumer Affairs and Fraud Control (DGCCRF) investigators in the field, and for dismantling large-scale cartels, thanks to

**“Generative artificial intelligence is a disruptive innovation that is reshaping all economic sectors, particularly digital markets.”**

the powers available to the Autorité. The two entities work together, with 56% of the decisions imposing fines issued by the Autorité since 2016 originating from the detection of practices by the DGCCRF network.

A few well-known cartels dismantled by the Autorité illustrate its key role in protecting French purchasing power: the fruit compote cartel, the laundry detergent cartel, the ham cartel, the mobile phone cartel and the sandwich cartel. Therefore, the Autorité de la concurrence has established itself as the “competition watchdog”, working to promote consumer purchasing power and the proper functioning of the markets.

**Enacted in 2015, the French Law for Growth, Activity and Equal Economic Opportunities aimed to establish equal economic opportunities and stimulate economic activity by unlocking bottlenecks, promoting investment and increasing employment. The law entrusted the Autorité de la concurrence with a role in the regulation of the regulated legal professions. Almost 10 years after its adoption, how would you assess the application of the law?**

With the 2015 law, the prices of regulated services provided by legal professionals have been brought in line with actual costs, while maintaining a reasonable margin. There have been six price review campaigns, to the benefit of the purchasing power of the French people. In application of the measures relating to freedom of establishment, the Autorité de la concurrence has also proposed, on four occasions since 2016, maps of establishment areas for the legal professions concerned and recommendations on the pace of creation of new offices. The law has facilitated a gradual increase in and better balance of notaries and commissioners of justice across the country, without disrupting the operating conditions of existing offices – including newly-created ones. The median number of notaries per 100,000 inhabitants thus increased from 14 to 17 between 2016 and 2023. The law has also opened up the legal professions, encouraging any rules or practices that might unduly restrict access to the professions and their freedom of organisation to be abolished or relaxed, once again to the benefit of

the French people and their access to the professions. The law has also helped to increase the number of women in the professions and achieve gender parity. In 2023, 56.5% of notaries and 43.7% of salaried commissioners of justice were women. With freedom of establishment, we have seen appointments that are much more in line with the demographics of graduates (around two-thirds of whom are women).

**You recently tabled a draft law in the Senate to simplify economic life. What are the key measures in the law to boost the competitiveness of the French economy?**

Our economic policy has one ambition, namely to make France increasingly attractive and turn our country into a great manufacturing nation in the 21<sup>st</sup> century. To this end, we presented a comprehensive action plan for simplification, with three ambitious and complementary objectives. First of all, we want to introduce a radical change in philosophy, so that public administration evolves and fully supports all companies. We will tackle, for example, Cerfa forms, pay slips, the complexity of public procurement, and committees that do not meet. Second, we want to relieve the burden on small economic stakeholders – VSEs, SMEs, the self-employed, tradespeople and shopkeepers –, which suffer most from the proliferation of rules. To this end, we will bring together the laws applying to professionals and to private individuals in the areas of banking, insurance and energy.

The third objective is to facilitate and accelerate the ecological, energy and digital transitions that will drive the re-industrialisation of our country. In this respect, I welcome the proactive action taken by the Autorité de la concurrence

**“Our economic policy has one ambition, namely to make France increasingly attractive and turn our country into a great manufacturing nation in the 21<sup>st</sup> century.”**

in the digital field and its recent initiatives to support companies in the ecological transition. We will reduce the time and conditions for setting up factories and data centres. We will also remove the barriers that are preventing us from reaching our full potential in geothermal energy, offshore wind power, carbon storage, biogas and underground lithium and copper mining. Lastly, we will make France a leader in innovation by speeding up procedures and the payment of the research tax credit.

**As the end of the terms of the European Commission and European Parliament approach, how do you assess the work on the European Union’s industrial and trade policy?**

In response to the crises of the recent years, Europe has coordinated its competition policy more closely with its industrial and trade policy. We defend the conditions of

the level playing field, and we are starting to impose the same rules on our partners as those applying to European companies. This is an excellent initiative, and one that our compatriots have been eagerly awaiting. In terms of industrial policy, major projects of common European interest have paved the way for cooperation to encourage investment in strategic sectors in which the EU aims at regaining some of its sovereignty: healthcare, the cloud, batteries and hydrogen. With regard to trade policy, the implementation of the Foreign Subsidies Regulation (FSR) also represents a paradigm shift, equipping the EU with the resources to ensure that fair rules apply worldwide. Progress is being made, and I hope that this work will continue with the future Commission.

**At the start of the year, the Autorité de la concurrence started inquiries *ex officio* to gain a better understanding of how the artificial intelligence (AI) sector functions and to shed light on the competition issues raised by its rapid development. How do you view the challenge posed by the development of AI, and what are your ambitions for France in this area?**

Generative AI represents a disruptive innovation that is reshaping all economic sectors, particularly digital markets. It holds real potential for economic growth, and France is well-positioned to become a world leader in this new wave of innovation.

My ambition is therefore to accelerate this dynamic in our country, so that we can compete with the domination of the sector by US and Chinese technologies. We want to innovate too! As part of our national AI strategy, we will

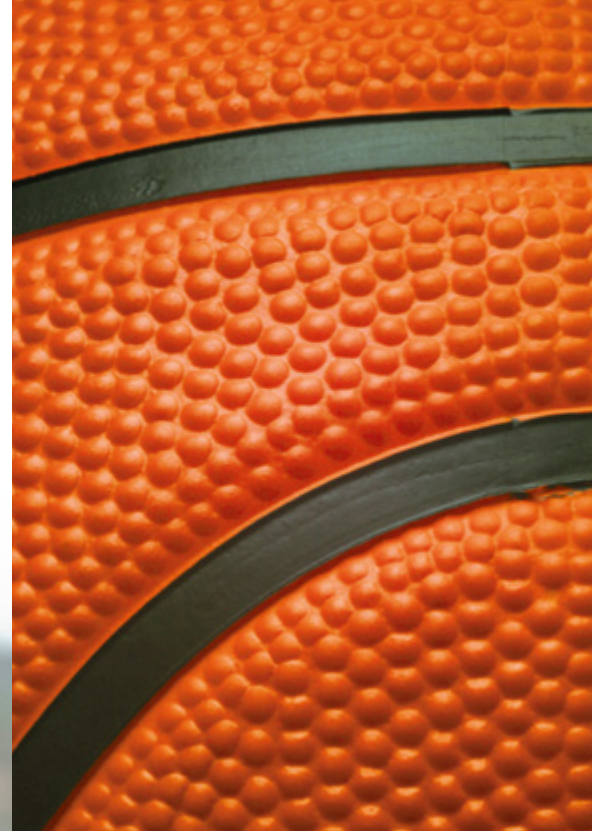
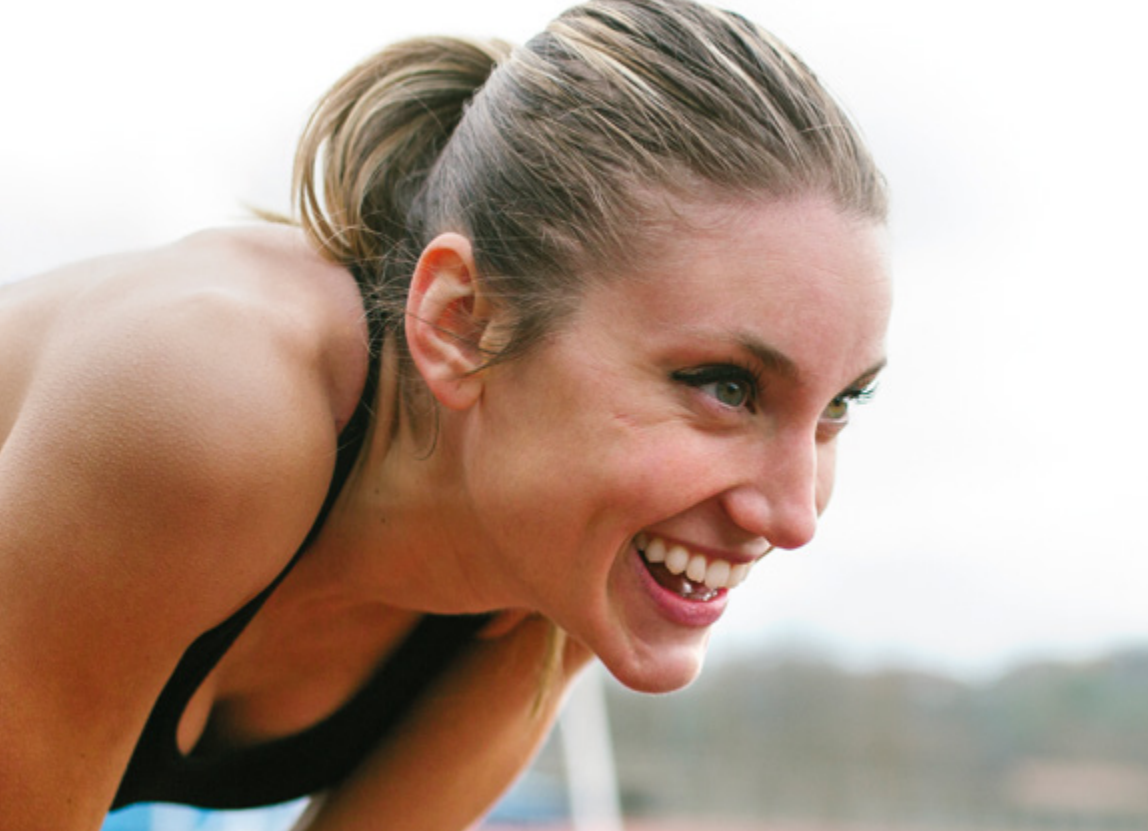
be investing massively in a number of key areas, such as training, talent retention and research capacity building, while also supporting French initiatives to innovate and bring AI-based tools to market. Certain AI segments are also characterised by a concentration of resources in the hands of major technology companies, which enjoy significant competitive advantages thanks to their command of computing power, particularly in the cloud, and vast datasets. This concentra-

tion creates major obstacles for new entrants, limiting the spread of the technology. To promote healthy competition and foster long-term sustainable innovation, we must make full use of the competition law tools at our disposal, foremost among which are abuse of dominant position, merger control and abuse of a situation of economic dependency. Recent European legislation, in particular the Digital Markets Act (DMA), is a valuable tool in this area, and the Autorité was involved in this historic moment.

**Any final words?**

Well done and thank you to all the teams at the Autorité and to its President, for their commitment and hard work.





As the guardian of economic public order, the Autorité de la concurrence strives through its action to protect the functioning of the markets and guarantee fair, undistorted competition.

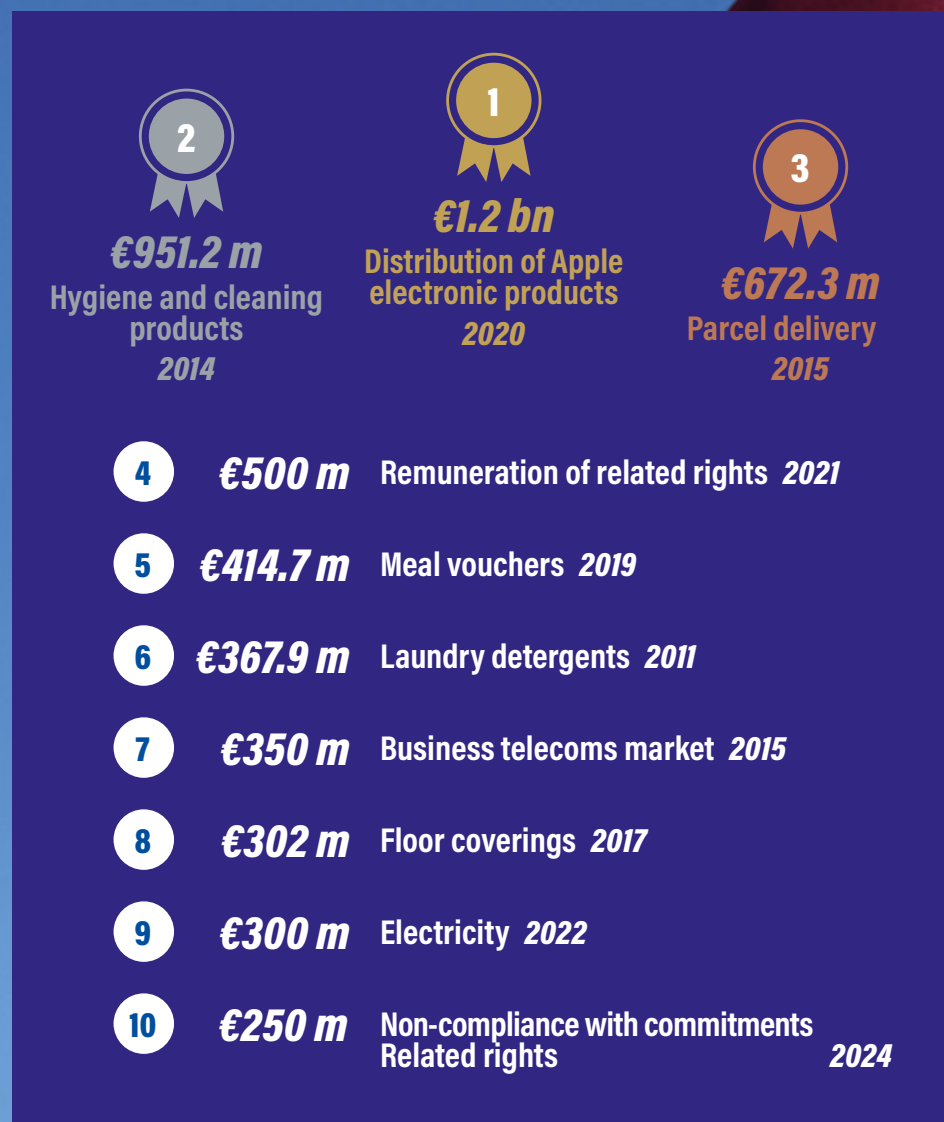
# ***GUARDIAN OF THE RULES***





# 15 YEARS OF ACTION IN FIGURES

## TOP 10 FINES IMPOSED SINCE 2009\*



## OUR MAJOR SECTOR-SPECIFIC INQUIRIES

2010

Mass retail distribution

2012

> Car repair  
> E-commerce

2013

> Medicines  
> Rail reform

2014

Coaches

2015

Regulated legal professions

2016

> Hearing aids  
> Driving licences

2018

Online advertising

2019

> Health sector  
> French overseas territories

2020

Situation in Corsica

2021

> FinTechs  
> Music sector

2023

> Cloud  
> Mobility

€20.4 billion

The estimated overall benefit to the French economy of the work of the Autorité from 2011 to 2023 (fines imposed and additional costs avoided for the economy).

Almost

€9 billion

in fines imposed by the Autorité since 2009.

3,229 mergers and acquisitions

examined since 2009.

\* Before appeal.



# THE AUTORITÉ AT A GLANCE

## A COMMITTED, INDEPENDENT INSTITUTION

The Autorité de la concurrence is the institution responsible for ensuring the proper functioning of competition in France. As an independent administrative authority, the Autorité operates with a Board structure and is made up of a wide range of profiles, which fosters debate and ensures the impartiality of its deliberations.

## DECISIONS AND OPINIONS

**17** members of the Board

## EXPERTISE

**199** staff members

## BUDGET

**€24.3 m**

## FINES IN 2023

**€167.6 m**

## EUROPEAN NETWORK

*The French Autorité is one of the most active national competition authorities in Europe (in terms of the number of investigations opened and decisions adopted on the basis of European law).*

# 4 MISSIONS WITH THE SAME AMBITION

## SANCTIONING ANTICOMPETITIVE PRACTICES

The Autorité ensures that anticompetitive agreements and abusive behaviour, which can have a serious impact, are rightly punished. These practices include horizontal agreements between competitors (in particular "cartels" that can result in price rises), vertical agreements between suppliers and distributors, and abuses (exclusionary or exploitative) by players in a dominant position. These practices harm consumers, downstream and upstream businesses, and public finances in the case of anticompetitive agreements in public procurement contracts, and affect market efficiency itself by reducing the incentives for companies to improve.

## EXAMINING MERGERS

As the watchdog for the competitive structure of the markets involved in transactions, the Autorité examines proposed mergers and acquisitions that exceed a certain size. It therefore ensures, upstream, that these transactions do not lead to dominant positions that are too strong or to monopolies, which would reduce the competitive dynamics in the markets concerned. If there are risks of harm to competition, the Autorité will only clear the transaction on condition that appropriate solutions are put in place (structural or behavioural remedies), or may block the transaction.

## ADVISING POLICYMAKERS

The Autorité has a general advisory and expertise remit and serves, in a way, as a competition advocate. Its expertise is frequently called on by the French government and parliamentary committees on competition-related questions and draft legislative and regulatory texts. It then evaluates the impact of a reform on the competitive functioning of a given sector, and identifies possible risks of distortion that may arise with the new text. The Autorité also has the power to start inquiries *ex officio*, in particular to analyse the competitive functioning of new markets.

## REGULATING THE REGULATED PROFESSIONS

The Autorité is involved in regulating six regulated legal professions: notaries, commercial court registrars, court-appointed administrators, court-appointed liquidators, commissioners of justice, and lawyers at the French Administrative Supreme Court (*Conseil d'État*) and the French Supreme Court (*Cour de cassation*). It regularly provides opinions to the French government on changes in rates, as well as the establishment of new professionals. It therefore plays an active role in implementing a 2015 reform that is thoroughly modernising the regulated professions.





# THE VALUES OF THE AUTORITÉ

## Independance

### EXTERNAL

We are committed to upholding economic public order, consumer protection and free competition, regardless of political or private interests.

Our decisions are based on open discussion, taking both the legal and economic arguments into consideration, and on the merits of the case alone.

### INTERNAL

We conduct our work with integrity and probity, and rigorously examine every case without bias.

We are capable of questioning our convictions and of being bold in preparing our assessments and proposals.

## Dialogue

### EXTERNAL

We attach great importance to dialogue, and make every effort to ensure open and constructive dialogue with the French parliament, government and public bodies, including the Directorate General for Competition Policy, Consumer Affairs and Fraud Control (DGCCRF), companies, associations and other stakeholders, as well as our European and international partners.

We are particularly attentive to the principle of fairness and the *inter partes* nature of proceedings.

### INTERNAL

We seek to provide a work environment that cultivates team spirit, employee well-being and the constructive exchange of ideas.

Every day, we work in a spirit of trust, which values collaboration, goodwill and mutual respect among staff members.

## Commitment

### EXTERNAL

We do not hesitate to examine complex and sensitive subjects, in all sectors, within the scope of our various prerogatives.

We are responsive and agile in the face of new changes in the French economy.

### INTERNAL

We are committed to ensuring the proper competitive functioning of the markets, and use all the legal tools at our disposal.

We perform our duties with fairness, rigour and creativity, with the aim of being a driving force for the future.

## Openness

### EXTERNAL

We operate resolutely within a European and international context.

We believe the plurality of viewpoints, garnered during the investigation of our cases, during the discussions at Board hearings and as part of consultations with stakeholders, represents the effectiveness and legitimacy of our work.

### INTERNAL

We combine profiles, disciplines and nationalities to create a modern vision of competition.

We foster an inclusive work environment that ensures equal access for women and men at all levels of responsibility.

We value the diversity of profiles, which encourages debate and enriches our discussions.

## Striving for excellence

### EXTERNAL

Our ambition is to be among the most active and innovative competition authorities.

We seek to continually improve the efficiency of our procedures, as well as the quality, richness and timeliness of our decisions.

We strive to provide an expert vision of competition issues, based on thorough investigation and in-depth knowledge, particularly of strategic and emerging markets.

### INTERNAL

We want to attract the best talent. We train our teams in the latest methodologies.

We ensure that our teams update their skills regularly, so they can understand the legal, economic and technological challenges of the world of tomorrow and anticipate market developments.



# AND DIVERSITY

# OPENNESS, INCLUSION

The Autorité is resolutely committed to inclusion and diversity (I&D), and published its roadmap in November 2023 entitled "Sharing, growing and learning together: inclusion and diversity in the workplace at the Autorité de la concurrence". I&D consultants have been appointed to monitor the implementation of its I&D actions.

### Objective

To harness the wealth of diversity within the Autorité but also to increase its visibility among the general public – especially young people – and reach out to new profiles with different backgrounds, in order to strengthen its cohesion and efficiency.

### Concrete actions

Through its roadmap, the Autorité is undertaking a series of measures: training on equality in all its forms, the organisation of an annual management seminar on the theme of "Management and Diversity", certifications recognising the quality of its HR processes, long-term efforts to obtain the Diversity Label, new requirements for service providers, the creation of a unit for reporting

and dealing with gender-based discrimination and violence, and support for people with disabilities.

Lastly, the Autorité is committed to raising awareness of its actions among young people and to being a partner for students throughout their school and university careers. The Autorité welcomes work experience students as from the final year of middle school (14-15 years old) and university interns, and regularly receives visits from Master's students from all over France (Paris, Nanterre, Aix-Marseille, Angers, Lille, etc.). Moreover, Benoît Cœuré presented the Autorité to penultimate and final year secondary school students (16-18 years old) at Lycée Charles Le Chauve in Roissy-en-Brie, for whom competition policy is part of the *Baccalauréat* syllabus.

## Commitment to youth



Benoît Cœuré visits secondary school students in Roissy-en-Brie

Watch the videos of his presentation.



Visit from students in the European Business Law Master's programme at Paris Nanterre



A new group of interns joins the Autorité

## Gender equality



### Mentoring programmes

The Autorité received the latest group from the mentoring programme run by the Women AT network, which pairs professional women with competition law mentors.



### Women's support network

The Autorité welcomed representatives from Femmes de Bercy and Women@Competition to share their experiences and launch its own women's support network in 2024.



### Experience sharing

During its annual management seminar, the Autorité welcomed a large number of delegates and managers in charge of diversity and inclusion, from both the private and public sectors, to discuss the theme of "Management and Diversity".

## Fight against sexism

### Signing of a charter

On 25 January 2024, the Autorité joined the #StOpE initiative against ordinary sexism in the workplace.



### Action to combat violence against women

To mark International Women's Day, Autorité employees took part in the Sine Qua Non Run, with all proceeds going to UN Women.

## Disability support



### New disability consultant

Fawzia Refara has been appointed to the newly-created "Disability Consultant" position and will serve as the point of contact for all disability-related issues.



### DuoDay

The Autorité participated in DuoDay for the first time, an event that aims to introduce people with disabilities to the diversity of our professions.

Watch the interviews with Maël Guilbaud-Nanhou, Secretary General of the Autorité, and Laury Habricot, a DuoDay participant.

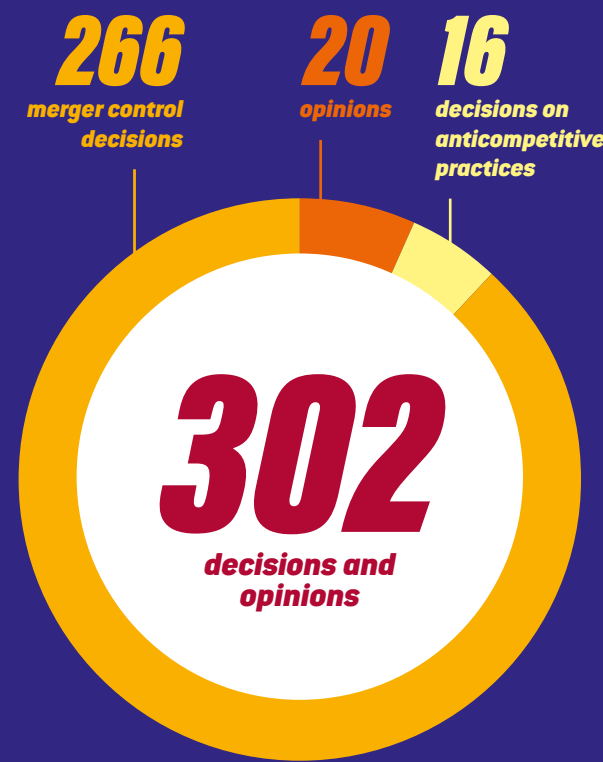


**Through its commitment, the Autorité is embracing its social responsibility and promoting a shared culture of living together.**



# 2023 KEY FIGURES

## OVERVIEW



## MERGERS

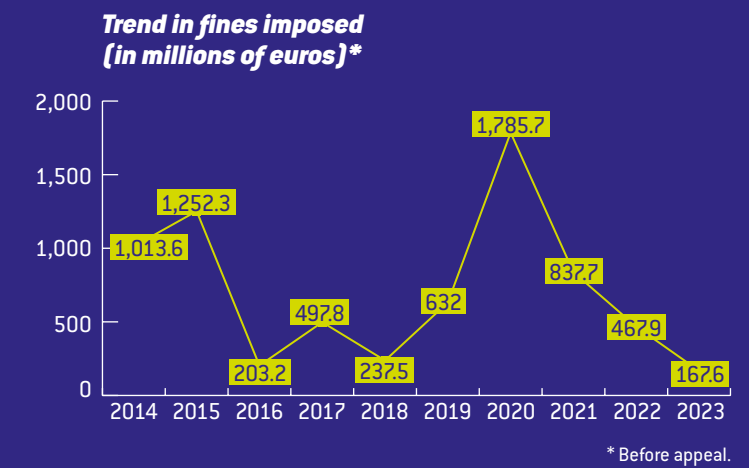
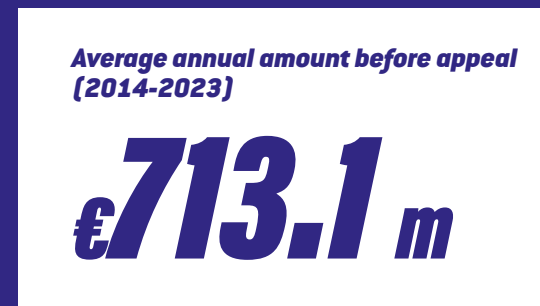


## ECONOMIC SECTORS

Economic sectors in which the Autorité took the most action in 2023, in its enforcement and advisory roles (excluding merger control decisions)



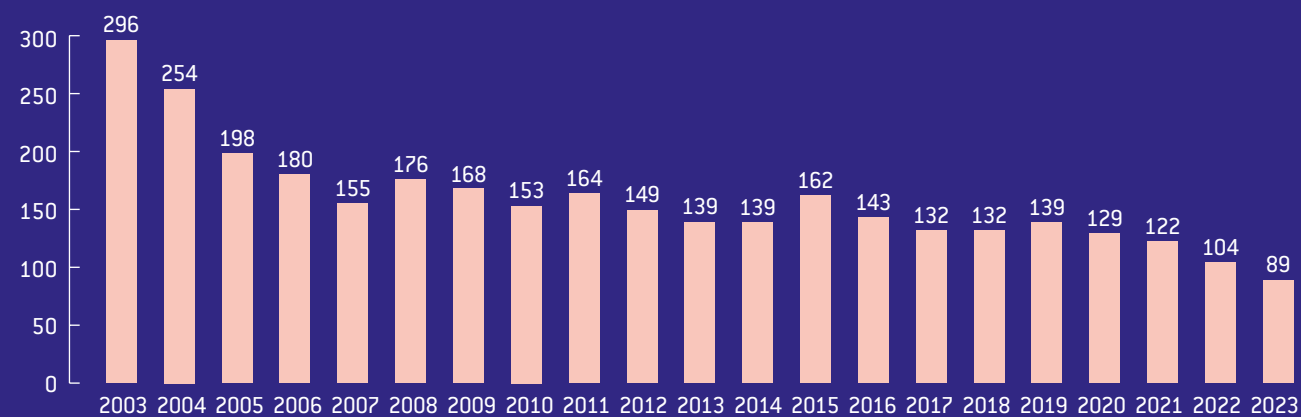
## FINES



## ONGOING CASES

Case load (excluding mergers)

With 89 cases, the number of open cases has never been so low. The steady drop illustrates the ongoing efforts to deal with the oldest cases and reduce investigation times, helped by the new procedure at the end of the written *inter partes* proceedings and the possibility of rejecting a case for lack of appropriateness.



## APPEAL COURT PROCEEDINGS

Status at 27 April 2024

	2016	2017	2018	2019	2020	2021	2022	2023
Number of appeals filed	9	5	8	12	13	11	8	6
Number of decisions upheld:	9	4	7	12	10	8	4	-
• appeals dismissed, inadmissible or withdrawn	4	3	5	7	5	7	4	-
• partial review/upheld on the merits	5 <sup>1</sup>	1 <sup>2</sup>	2 <sup>3</sup>	5 <sup>4</sup>	5 <sup>5</sup>	1 <sup>6</sup>	-	-
Total appeals examined	9	4	8	12	12	8	5	0
Pending cases	0	1	0	0	1	3	3	6
% decisions upheld/total appeals examined*	100	100	88	100	83	100	75	NS

1. Decisions 16-D-09, 16-D-11, 16-D-14, 16-D-20 and 16-D-28.  
 2. Decision 17-D-25.  
 3. Decisions 18-D-21 and 18-D-23.  
 4. Decisions 19-MC-01, 19-D-09, 19-D-19, 19-D-24, 19-D-25 and 19-D-26.  
 5. Decisions 20-D-04, 20-D-09, 20-D-12, 20-D-16 and 20-MC-01.  
 6. Decision 21-D-05.

\* The statistics may change depending on the rulings of the French Supreme Court (*Cour de cassation*) and subsequently the Court of Appeal, as applicable.



## ENFORCEMENT ACTION

# COMBATING ECONOMIC DOPING

In addition to tackling anticompetitive practices, the Autorité plays a more general role as a referee, ensuring that order and the rules of the game are scrupulously followed by seeking to prevent players from being unduly restricted in their movements, avoid any cheating and preserve fair play in the economic playing field. In competition, as in sport, it's a good game when the teams play fairly!

### A high-performance framework

#### A number of practices sanctioned

The negative impact on the economy of anticompetitive practices, specifically cartels and abuses of dominant position, is considerable, especially on the weakest. These practices can seriously damage the interests of consumers and SMEs, particularly when they lead to an artificial increase in prices or the limitation of supply on the market, and consequently remove the pressure on companies to innovate. Ultimately, this behaviour is detrimental to purchasing power, competitiveness, growth and employment.

2023 was an active year, during which the Autorité fined 11 anticompetitive practices in a variety of sectors (food, services, luxury goods, nuclear waste, construction and public works, etc.).

### FINES IMPOSED IN 2023

Date	Decision	Fine
8 March	Marketing of Canard-Duchêne champagne in the French Antilles and French Guiana (exclusive imports)	€283,000
20 March	Securing of tobacco outlets in the Hauts-de-France and Île-de-France regions (agreement)	€25,000
12 April	Sale of subscriptions to economic intelligence and business information products (agreement)	€3,500,000
18 April	Distribution of bakery equipment (agreement)	€2,950,000
11 June	Restoration of heritage buildings in the Hauts-de-France region (agreement)	€174,000
7 September	Engineering, maintenance, dismantling and waste treatment services for nuclear sites (agreement)	€31,239,000
26 September	Distribution of games of chance (boycott)	€750,000
11 December	Distribution of luxury teas (agreement and online sales ban)	€4,000,000
19 December	Distribution of luxury watches (agreement and online sales ban)	€91,600,000
20 December	Supply of video game controllers for the PS4 (abuse of dominant position)	€13,527,000
29 December	Manufacture and sale of foodstuffs in contact with materials that may contain or have contained Bisphenol A (agreement)	€19,553,400
		<b>€167,601,400</b>

# 16

decisions on anticompetitive practices, including 11 fines.

# HEALTHY COMPETITION





**FOCUS ON...**  
**E-commerce restrictions**

E-commerce continues to grow and is now a major distribution channel. For a manufacturer, preventing its authorised retailers from selling on the Internet is strictly prohibited, since this type of practice is likely to restrict the development of distributors' businesses and is detrimental to consumers, who could have enjoyed better prices. The Autorité is regularly required to sanction this type of behaviour and has recently fined several brands, once again recalling the rules in this area.

The Autorité fined Rolex €91 million for prohibiting its retailers from selling its watches via the Internet for over 10 years. It considered that the objective of combating counterfeiting and parallel trade invoked by Rolex could be achieved by means that are less restrictive to competition.

»»» Decision 23-D-13 of 19 December 2023

Similarly, the Autorité imposed a €4 million fine on the Mariage Frères group – one of France's leading producers of premium teas – for hindering the commercial freedom of its distributors for almost 15 years by prohibiting them from selling its branded products online, on the one hand, and reselling its products to other retailers, on the other. These practices limited intra-brand competition and partitioned markets.

»»» Decision 23-D-12 of 11 December 2023

Following a report by the Directorate General for Competition Policy, Consumer Affairs and Fraud Control (DGCCRF), the Autorité also fined De Neuville more than €4 million for restricting the online selling of De Neuville brand chocolates by its franchisees. From 2006 to 2019, the contractual framework between the franchisor and its franchisees prevented the latter from freely selling their products online, with De Neuville reserving exclusive rights to online sales.

»»» Decision 24-D-02 of 6 February 2024

**Several dawn raids conducted**

Effective control requires effective detection and available evidence. For this purpose, the Autorité has a dedicated service with cutting-edge IT investigative skills and high-performance equipment.

In 2023, the Investigation Services conducted dawn raids on companies suspected of anticompetitive practices in the following sectors:

- 📍 production and marketing of food and non-food products;
- 📍 graphics cards;
- 📍 passenger rail transport, distribution of travel agency services and products, and digital mobility systems and tools.

In 2024, the Investigation Services also conducted dawn raids on companies in the electrical cable distribution sector in the French overseas territories, and in the medical biology sector.

The cases are ongoing.

**A new, effective detection framework**

2023 also saw the leniency notice updated, plus a procedure for collecting and processing whistleblower reports introduced. Together, they provide a new, more efficient framework for directly reporting information.

**The revised leniency programme**

Through the adoption of the French Economic Regulations Act of 15 May 2011, the legislator considered that it was in the interests of the French economy, and in particular those of consumers, to give favourable treatment (full or partial immunity from fines) to companies that inform the Autorité of the existence of illegal agreements and cooperate to put an end to them.

In practical terms, the practices in question are cartels between companies to fix prices and production or sales quotas, and to share markets, including during calls for tender, or any other similar anticompetitive behaviour between competitors, and in particular hub-and-spoke arrangements (concerted practices implemented through players with a vertical relationship with the perpetrators of the practices). In 15 years, several large-scale cartels have been dismantled thanks to the leniency programme, including some of the biggest cartels ever dealt with by the Autorité.

In the interests of transparency and predictability, the Autorité adopted a procedural notice in 2006, which was then updated in 2015. In 2023, the Autorité published a new procedural notice consolidating and clarifying the applicable legal framework.

First, the procedural notice acknowledges the abolition by the French DDADUE Law of 3 December 2020 of the leniency notice issued by the Board, and details the new procedure whereby the General Rapporteur informs the undertaking of its eligibility for full or partial immunity from the fines incurred, which the Board may confirm when it issues its decision on the merits.

Second, the procedural notice provides greater clarity on a number of key points. It sets out the new eligibility conditions for the different types of immunity introduced by Decree 2021-568 of 10 May 2021, clarifies the practice of using a marker so that an applicant can retain its place in the leniency queue, and specifies the guarantees conferred on leniency beneficiaries with regard to their civil or criminal liability.

Lastly, the procedural notice modernises the procedure for submitting and collecting leniency applications by providing for the possibility of submitting information electronically.

»»» Procedural notice of 15 December 2023 on the French leniency programme  
»»» Press release of 15 December 2023

**First application of the new leniency procedure**

The new leniency procedure resulting from the French DDADUE Law was applied for the first time in a decision issued on 12 April 2023, in which the Autorité sanctioned price-fixing and customer allocation practices in the sector for the sale of subscription products, implemented for over 30 years by BvD and Ellisphere. The General Rapporteur informed the company concerned that it was eligible for immunity under the leniency programme and set out the cooperation conditions to be met to qualify. The Board confirmed that BvD and its parent company, Moody's Corporation, had been granted full immunity from the fines.

»»» Decision 23-D-04 of 12 April 2023

**The creation of the whistleblower framework**

In accordance with Decree 2022-1284 of 3 October 2022, the Autorité now has a specific framework for the collection and processing of whistleblower reports, accessible from its website. Under the new legal framework, whistleblowers can inform the Autorité directly when they witness an anticompetitive practice, without having to report the practice internally to their company.

The whistleblower framework is reserved for identified private individuals who report or disclose, without direct financial compensation and in good faith, information concerning cartel practices, abuses of dominant position and State aid. Whistleblowers are guaranteed anonymity, confidentiality and protection against legal proceedings or professional retaliation.

Reports must concern a breach of the rules prohibiting:

- 📍 anticompetitive agreements (including in public procurement contracts);
- 📍 abuse of dominant position;
- 📍 State aid incompatible with the internal market.

The benefit of the whistleblower procedure, which provides protection for private individuals, may also be combined with that of the leniency programme, which provides immunity from or a reduction in fines for legal entities. This would be the case, in particular, if the whistleblower chooses to report a matter internally, within their company, which may then hope to be the first to inform the Autorité of an anticompetitive agreement and thus benefit from immunity from fines.

A dawn raid has already been conducted on the basis of a whistleblower report.

Find out more in the "Whistleblower" section of our website.  
»»» Press release of 19 October 2023

**TIME-OUT: COMPLIANCE**

**SEVERAL CHANNELS FOR MAKING REPORTS**

- 📍 Electronically, directly on the Autorité de la concurrence website using a specific form.
- 📍 By telephone, on a dedicated number (+33 (0)1 55 04 00 05) where the whistleblower can record a message setting out the facts.
- 📍 By post, using a double envelope system (in accordance with the instructions on our page "Find out more about the whistleblower framework").

**Watch the video presentation of the whistleblower system by the General Rapporteur of the Autorité.**



# PURCHASING POWER

## THE AUTORITÉ CONTINUES ITS EFFORTS

Returning inflation to acceptable levels on a sustained basis requires constant vigilance against behaviours that could unduly prolong price rises.

While in normal times, one-third of inflation comes from companies raising prices above their costs and two-thirds from employees demanding higher wages, the European Central Bank recently reported that the opposite had occurred in 2022. Although the inflationary crisis is partly behind us, to avoid inflation persisting, companies must not take advantage to raise their prices excessively.

As part of its mission to combat anticompetitive practices, the Autorité intends more than ever to play its part in combating all forms of the abuse that fuel this phenomenon, to the detriment of consumers.

**“The persistence of inflation is partly due to excessive corporate profits, with companies taking advantage of the current situation to keep prices high.”**

**Benoît Cœuré,**  
Le Parisien, 16 June 2023

### ROADMAP



#### CONSUMER GOODS AND DISTRIBUTION

The investigations launched by the Investigation Services in 2022 and 2023 into the production and marketing of consumer goods will continue. The Autorité will also ensure that the restructuring underway in mass retail distribution does not harm consumers and that central purchasing bodies can obtain competitive prices for consumers, without damaging the fabric of SMEs and farm incomes.



#### TRANSPORT AND ENERGY

Transport and energy are also key focuses for the Autorité, particularly given their importance in household budgets. The Autorité will continue to work with the French energy regulator (*Commission de régulation de l'énergie* – CRE) to ensure that the reform of the electricity market benefits all players and consumers. The Investigation Services will continue to investigate a number of ongoing cases, notably in the rail ticketing sector (following the dawn raids conducted in 2023), as well as the cross-Channel shipping sector and the fuel sector in Corsica.



#### FRENCH OVERSEAS TERRITORIES

The Autorité will continue its efforts to preserve purchasing power in the French overseas territories, in particular by continuing its investigations into air transport in the French Antilles (a case in which three companies were notified of objections in March 2023 – see the press release of 21 March 2023) and the operation of the port of Longoni in Mayotte (a case in which one company was notified of two objections concerning abuse of dominant position in February 2024 – see the press release of 28 February 2024). The Autorité will also continue to support the competition authorities in New Caledonia and Polynesia.



#### COMBATING RENT-SEEKING AND UNLOCKING THE ECONOMY

Supporting purchasing power also means combating rent-seeking behaviour that affects the functioning of the economy. The Autorité will continue to ensure that the spirit of the 2015 Law for Growth, Activity and Equal Economic Opportunities is upheld, particularly with regard to the regulated legal professions, including notaries and commissioners of justice, for which the 2015 law provided for a gradual increase in the number of offices. More generally, compliance with competition rules by all regulated professions will continue to be a focus of attention.

The Autorité also intends to contribute to the preparation of the new Law for Growth called for by the President of the French Republic, by identifying pro-competitive reforms that would help purchasing power, as well as, within its areas of competence, simplification measures.

### MERGER CONTROL

# CLOSE MONITORING OF MERGERS AND ACQUISITIONS

Merger control is vital for the structure of the French economy, preventing mergers and acquisitions from creating or strengthening market positions that could have a negative impact on the market, particularly in terms of higher prices for consumers. A look back at an intense year throughout France and in every economic sector.

# 266

mergers and acquisitions examined in 2023.

#### An activity that continues to grow

While the value of merger and acquisition deals worldwide fell by more than 20% in 2023 compared with 2022, the number of transactions examined by the Autorité continued to rise, from 257 in 2022 to 266 in 2023 – i.e. one case per working day. In 2023, the cases examined included three European-scale transactions referred to the Autorité by the European Commission, which considered that the Autorité was best placed to examine the cases, given its experience and the fact that the effects of the transactions were mainly felt on French territory. While the vast majority of the transactions examined by the Autorité do not pose any particular difficulties, some require specific conditions (remedies) to be met, as was the case for four transactions in 2023. The remedies are the result of in-depth collaboration between the companies involved in the transaction and the Autorité. This dialogue leads to faster results and, in some cases, to innovative commitments.

#### THE MERGER REVIEW PROCESS BEFORE THE AUTORITÉ

As soon as the file has been received in full, the Autorité opens...

#### PHASE 1 25 WORKING DAYS

If the Autorité finds no particular problems, the transaction is cleared, with or without conditions. However, if the Autorité has competition concerns, the case is referred to...

#### PHASE 2 65 ADDITIONAL DAYS

At the end of the second phase, the Autorité issues its final decision. In most cases, the transaction is cleared subject to remedies.





**Overview of remedies in 2023**

**General merchandise and decoration: takeover of Bricolex stores by Gifi**

The Autorité cleared, subject to conditions, the acquisition by the Gifi group, which operates in the distribution of general merchandise and decoration products, of Le Chamois, owner of Bricolex stores, which specialise in the sale of DIY products. As a result of the transaction, 21 Bricolex outlets became Gifi outlets, including eight in inner Paris and 13 in the Paris suburbs.

Recognising that the transaction was likely to harm competition in certain areas of Paris, the Gifi group committed to divest five Bricolex stores in the areas concerned.

» Decision 23-DCC-57 of 21 March 2023

**Camping: acquisition of Vacanceselect by the ECG group**

In the outdoor accommodation sector, the Autorité cleared the acquisition of the Vacanceselect group by the ECG group, subject to conditions. The companies rent out camping pitches to consumers, either on their own campsites (i.e. directly and entirely owned by the groups) or on sites owned by third-party campsites, which they operate under tour operator contracts.

During its investigation, the Autorité identified risks of harm to competition on the markets for the operation of campsites at the local level. To prevent these risks, ECG committed to divest a campsite in the Les Prés du Verdon area (Alpes-de-Haute-Provence) and to enter into a contract with a third-party campsite to operate 27 high-end serviced pitches in the La Croix du Vieux Pont area (Aisne).

» Decision 23-DCC-32 of 14 February 2023

**Motorway catering: acquisition of Sirestco by the Areas group**

In the motorway catering sector, the Autorité imposed conditions on the acquisition of the Sirestco group by the Areas group, identifying risks of harm to competition in several markets for the provision of services. On the A5 and A19 motorways, the Areas group would have had a market share in excess of 50% following the merger, with a risk of price rises and a reduction in the quality of the offer for consumers.

To resolve these risks, the Areas group made commitments involving, on the one hand, divesting the sub-concession contract for the catering and food retail activities of the specialist shop at the Troyes-Fresnoy service station on the A5 motorway, and, on the other, transferring the lease management contract for the operation of the "Casino Everyday" shop at the Loiret service station and entering into a third-party operating contract for catering activities at the same station on the A19 motorway.

» Decision 23-DCC-151 of 25 July 2023

**Takeover of ZEturf by La Française des Jeux**

The Autorité also made the takeover of ZEturf by La Française des Jeux (FDJ) subject to commitments, considering that, as a result of its monopoly on the distribution of lottery games (online and at points of sale) and sports betting at points of sale, the new entity could have been tempted to use its exclusive right as a lever to restrict competition in the markets open to competition (online horse race and sports betting).

In addition, as regards horse race betting in particular, the new entity would have been able to prevent or make it more difficult for competitors to access the common betting pools managed by the new entity or to remove horse race bets collected by the new entity from these pools.

FDJ committed to not using its monopoly gaming activities to develop competitive games and to clearly separating its monopoly gaming activities from its competitive gaming activities, in particular:

- ❶ by setting up separate websites or applications for each type of activity, with no common home page and no gateway between them;
- ❷ by creating or maintaining a player account for each activity, with no possibility of a gateway between accounts;
- ❸ by refraining from recreating a customer database to promote its competitive gaming activities, which would include data relating to players of monopoly games.

FDJ also committed to not promoting any of its competitive games in its network's points of sale or to online lottery players, and to operating separate social network accounts for each type of activity.

In addition to these measures, its sales teams will receive training on how to respect the commitments. Furthermore, FDJ will organise its competitive gaming activities within one or more dedicated subsidiaries.

» Decision 23-DCC-191 of 15 September 2023



**Acquisition of OCS and Orange Studio by Canal Plus Group**

As part of its analysis of the transaction, the Autorité conducted a wide-ranging market consultation with operators in the film, television and video-on-demand sectors. It also worked closely with the French audiovisual and digital communication regulator (Autorité de régulation de la communication audiovisuelle et numérique - ARCOM) and the French Directorate General for Media and Cultural Industries.

The transaction could have had a significant impact on the diversity of French cinema by creating a monopsony (single buyer) situation in certain markets. After its examination, the Autorité cleared the acquisition in Phase 1 subject to conditions. To address the risks of harm to competition identified, Canal Plus Group entered into commitments aimed, in particular, at preserving the diversity of the French film offering by maintaining an OCS/Ciné+ acquisition team, separate from that of Canal+, for films distributed in the "first window" of the release schedule.

To further guarantee the diversity of French cinema, Canal Plus Group also committed to make, on behalf of the Ciné+/OCS team, pre-purchase proposals for a minimum of 25 French film projects over five years, including at least four French film projects per year (of which one per year with a budget of less than €4 million) for films rejected by the Canal+ acquisition team for first-pay-window broadcast.

» Decision 24-DCC-04 of 12 January 2024

**KEY FIGURES - 15 YEARS**



of transactions cleared without conditions (2009-2023)

3.34% of transactions subject to commitments

Only 2 decisions to block

The figures illustrate the determination of the Autorité to support the development of companies while also ensuring that competitors, customers, suppliers and consumers continue to benefit from the effects of a lively market in terms of price, quality and innovation.

**Takeover of Casino stores by Intermarché cleared subject to conditions**

On 13 July 2023, Intermarché notified the Autorité of its plan to acquire 61 stores under the Casino group brand. After careful examination of the transaction, the Autorité cleared the acquisition of the target stores, subject to commitments presented by Intermarché, including the divestiture of three stores.

» Decision 24-DCC-02 of 11 January 2024





# A FLEXIBLE INSTITUTION



32 - 33

ADVISORY ACTION

## BUILDING MOMENTUM IN ORDER TO GO FURTHER

Is it not said that to improve, you have to be able to evolve? Just as in sport where the desire to progress is a constant driving force, in economics the search for levers for growth and competitiveness is also a constant objective.

The Autorité plays an active part in this dynamic, making recommendations to public authorities with a view to fostering greater competition.

To comply with the rules, you also have to know what they say in order to integrate them upstream. Here again, the Autorité works to offer economic operators ever greater predictability through its sector-specific inquiries. A look back at a year of expertise.

### Expertise to effect significant change

The advisory role of the Autorité has grown steadily in recent years, covering a wide range of fields. 2023 was a particularly busy year that saw the Autorité issue 20 opinions, including two major sector-specific inquiries.

### What are the reasons for the growth in its advisory role?

First and foremost, there has been growing demand from administrations, the Minister of the Economy and Members of Parliament for analyses of the competitive impact of proposed reforms and expert appraisals of current regulations. Examples include the opinions issued to the French government on the draft Law to Secure and Regulate the Digital Space (SREN), and the property brokerage (*for more details, see p. 68*) and meal voucher (*for more details, see p. 65*) sectors, where the Autorité recommended reforms to the government, sometimes going so far as to offer turnkey solutions.

The Autorité also actively uses its power to take action *ex officio* to issue opinions and launch sector-specific inquiries.

It seeks to identify any bottlenecks in the French economy, as well as areas of growth that could give rise to reforms beneficial to the French people. The legislator has been receptive, and many of the opinions issued by the Autorité have led to far-reaching reforms.

Over the past 15 years, the Autorité has chosen its battles, focusing on **sectors where increased competition will have a direct impact on consumers**. As a result, it has influenced concrete debates that will shape the future of the French people, seeking to effect significant change in a number of sectors, such as mass retail distribution, automotive spare parts, over-the-counter medicine distribution, coach travel, motorway tolls, rail and bus stations, hearing aids and more.

# 20

opinions in 2023.



**FOCUS ON...**  
**Mobility: a key issue for the French people and the energy transition**

The diversity, efficiency and cost of land passenger transport are essential issues for the proper functioning of the production system and employment market, for the French people to access education, training and health, and for social and regional cohesion. In addition, French work to reduce greenhouse gas emissions relies critically on the transport sector, the main emitter of greenhouse gases.

Building on its extensive action on mobility in the past, the Autorité decided to conduct an unprecedented stocktaking exercise, issuing new recommendations that take account of legislative/regulatory changes and incorporate two additional dimensions - intermodality and sustainability.

»» Opinion 23-A-18 of 29 November 2023  
 [for more details, see p. 52]

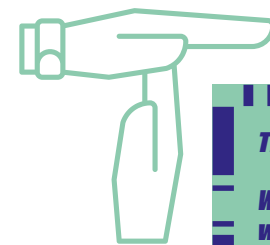
The Autorité also conducted an overall analysis of the competitive functioning of the electric vehicle charging infrastructure (EVC) sector. At a time of strong growth in electromobility and the transformation of the French car fleet, the Autorité decided to start inquiries *ex officio* to conduct an in-depth study of the complex and fast-developing EVC ecosystem and to make recommendations to foster competition in the sector.

»» Opinion 24-A-03 of 30 May 2024

**A watchdog role**

The Autorité also uses its power of initiative to analyse and decipher **fast-changing sectors** or explore **complex, cross-functional transformation phenomena linked to the digitalisation of the economy**. Its objective is to gain a good understanding of how specific sectors, technologies and behaviours function. In a forward-looking approach, the Autorité thus develops in-depth expertise of crucial issues, which consolidates its decision-making and prepares its teams to address the issues rapidly and effectively.

For example, the Autorité analysed the online search and display (tiles, banners and skins integrated into website content to be seen by Internet users) advertising sectors in 2010 and 2018 respectively, FinTechs in 2021 and the cloud in 2023. In early 2024, it also conducted a sector-specific inquiry into the generative artificial intelligence sector [for more details, see our digital dossier on p. 40]. All these emerging sectors are sources of productivity gains for companies and value creation for the economy.



**TIME-OUT: COMPLIANCE**

Watch or replay our webinar of 13 March 2024 - **Mobility: is competition on the move?**



**The advisory mission in the regulated professions**

In 2023, the work of the Autorité on the regulated legal professions focused mainly on the conditions of establishment of new professionals among lawyers at the French Administrative Supreme Court (*Conseil d'État*) and the French Supreme Court (*Cour de cassation*), notaries and commissioners of justice, as well as draft codes of professional conduct for these professions. With regard to the creation of new offices, the Autorité welcomed a number of reforms undertaken in line with its previous recommendations, in particular to give women greater access to the liberal profession of notary. Taking into account a number of considerations specific to each profession (development period, contraction of the property market, consequences of the health emergency, etc.), the Autorité systematically adopted a cautious approach in formulating its recommendations for the creation of new offices to the French government for the period 2023-2025.

»» Opinion 23-A-02 of 10 February 2023; Opinion 23-A-03 of 7 April 2023; Opinion 23-A-09 of 7 July 2023; Opinion 23-A-10 of 7 July 2023; Opinion 23-A-19 of 1 December 2023

It also made a number of qualitative recommendations to be implemented over the next two-year period.

The Autorité also issued an opinion on the services provided by commercial court registrars in connection with the register of security interests over movable property.

»» Opinion 23-A-13 of 27 July 2023

**Raising awareness among economic stakeholders**

Some of the opinions issued by the Autorité can provide economic stakeholders with a framework for analysing their behaviour. The signals sent by the opinions can therefore encourage voluntary compliance by economic operators. In its opinion on the cloud sector in 2023, for example, the Autorité described various practices that could restrict competition. It also identified market failures that could be addressed by regulation (the European Data Act and the French Law to Secure and Regulate the Digital Space [SREN]) and stressed that competition authorities would be extremely careful to ensure that established players did not hinder the development of smaller or new players based on these technologies (Opinion 23-A-08 of 29 June 2023).

Taking into account any concerns expressed by players in the context of sector-specific inquiries, the General Rapporteur may, in certain cases, decide upstream to conduct a preliminary examination of the evidence gathered, to assess whether there are grounds for opening one or more antitrust investigations.



# KEEPING THE COMPETITIVE FLAME ALIVE



## ECOLOGICAL TRANSITION

# PROMOTING SUSTAINABILITY

**Sustainability is a key priority for the Autorité, which is pursuing its commitment to the ecological transition in all aspects of its work. In particular, the Autorité is stepping up its efforts to detect anticompetitive practices that are the most harmful in terms of sustainability, while combining its firm stance with support for undertakings wanting to pursue virtuous sustainability-related projects. An update on significant advances and what's next.**

### **An essential commitment to the energy transition**

The Autorité wants to contribute to sustainability by protecting the competitive process, which is a source of innovation, increased quality and diversity of products and services, and efficient use of resources. Sustainability considerations have become major concerns for public authorities and civil society alike and are permeating economic activity, becoming additional parameters of competition between undertakings. They must therefore be taken into account in the actions of the Autorité, in accordance with its mandate under the law.

### **A procedural framework to secure virtuous business initiatives**

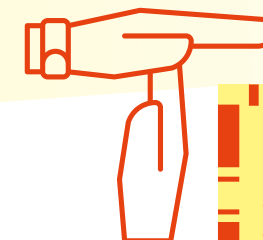
In view of the specificities and major challenges involved in bringing sustainability issues within the scope of competitive analysis, the Autorité has decided to adopt an "open door" policy, inviting undertakings that wish to

develop virtuous sustainability-related projects to submit their projects to the General Rapporteur, who may issue informal guidance as to their compatibility (or non-compatibility) with competition law.

In order to support undertakings in their efforts, the Autorité wanted to offer a flexible procedural framework. To that end, the Autorité prepared a notice, which – following a large public consultation – was published on 27 May 2024. The notice is based on the chapter of the new European Commission horizontal guidelines dedicated to sustainability agreements, while taking a broader scope that covers all competition-related matters, with the exception of mergers.

### **An antitrust case setting boundaries not to be crossed**

Following the example of the floor coverings cartel sanctioned in 2017, in which cartel members agreed to not compete on the environmental performance of their products, in 2023 the Autorité sanctioned a cartel in the so-called "Bisphenol A" (BPA) case.



#### **TIME-OUT: COMPLIANCE**

**See the "Sustainability" section on our website.**





Three professional organisations and 11 companies (Andros, Bonduelle, Charles & Alice, Cofigeo, Conserves France, D'Aucy, General Mills and Unilever, as well as can suppliers Ardagh, Crown and Massilly) were fined a total of nearly €20 million for failing to compete on an environmental and health competition parameter, i.e. the presence or absence of BPA, which is considered a potential endocrine disruptor, in containers in contact with food (cans, tins, etc.).

The case illustrates the potential temptation for certain companies to collude to delay the adoption or application of standards that could have beneficial effects on public health and the environment. The Autorité considered the practices to be very serious, as they meant that consumers were unable to choose BPA-free products, at a time when they were available and when BPA was already considered dangerous to health.

» Decision 23-D-15 of 29 December 2023  
[for further details, see p. 56]

### Targeted sector-specific inquiries

The priority given to sustainability is also reflected in the areas in which the Autorité decides to launch inquiries *ex officio*. Most of the latest sector-specific inquiries are concerned with sustainability (or at the very least include a sustainability component).

## In its November 2023 opinion on mobility, the Autorité stressed that opening up to competition could clearly accelerate the ecological transition of transport.

### Mobility opinion

While the European Green Deal calls for greenhouse gas emissions to be reduced by 55% by 2030 compared with 1990 levels, and for climate neutrality to be achieved by 2050, the transport sector needs to evolve to reduce its negative impact on the environment. With the Green Deal setting an objective for Member States of a 90% reduction in transport-related greenhouse gas emissions, transport policy must be seen through the prism of sustainability. At the national level, the transport sector is the largest greenhouse gas emitter, accounting for 31% of emissions in France in 2019.

Policies aimed at opening up public transport to competition were quick to incorporate the issues of sustainability and the fight against climate change. Competition policy contributes to sustainability insofar as competition can help to improve the transport offer for passengers and make mobility, in its less polluting forms, more attractive for consumers, which is likely to encourage a modal shift.

In contracted urban transport markets, the introduction of environmental criteria in calls for tender issued by mobility authorities can encourage players to intensify their innovation. For example, in a call for tender, the Hauts-de-France region selected a carrier that proposed an ambitious ecological offer (80% of the fleet "greened"). From 23 August 2026, it will be mandatory to include at least one environmental criterion in the award criteria for public procurement contracts.

Given their importance, the Autorité also considered that sustainability objectives, and the intermodality that contributes to them, could be more clearly integrated into the missions of the sector-specific regulator, the French transport regulator (Autorité de régulation des transports – ART), by introducing a more explicit legal basis. With that in mind, the Autorité recommended that the legislator amend the French Transport Code (*Code des transports*) to ensure that the ART's missions are consistent with the overall objectives of France's transport policy, which include environmental protection and regional development. In 2024, working closely with the ART, the Autorité will follow up on the recommendations made in its opinion.

» Opinion 23-A-18 of 29 November 2023  
[for more details, see p. 52]



### Sector-specific inquiry on electric vehicle charging stations

With the same aim of achieving carbon neutrality by 2050, in line with the Paris Agreement, the European Commission is planning to ban the sale of new combustion-powered cars by 2035. The development of electromobility is therefore a key factor in the ecological transition of the transport sector. As such, the deployment of a dense and reliable network of electric vehicle charging infrastructure (EVCI) is a *sine qua non* condition for the growth and sustainability of electric mobility.

These crucial issues raise competition concerns, which is why the Autorité decided to start inquiries *ex officio*, in order to conduct an in-depth assessment of the competitive situation in the EVCI sector, which is still taking shape. Its opinion primarily concerns the deployment and pricing of EVCI and the creation of associated services, which are key to the decarbonisation of the French economy.

The Autorité made legislative, regulatory and organisational recommendations to supplement the legal framework in which the multiple players operate and to optimise government support for the growing sector. The aim is two-fold, namely to create the right conditions for the emergence of a competitive sector, and to support consumers as they change their consumption habits.

In addition, a number of non-exhaustive potential competition risks are highlighted, which require particular vigilance to maintain competition on the merits and foster innovation, as well as the quality and diversity of the offering in these emerging sectors.

» Opinion 24-A-03 of 30 May 2024

### Opinion on product rating systems

Information on the sustainability-related characteristics of the products or services offered to consumers has been on the rise for several years. The information, often provided by rating systems expressed in the form of numbers, letters or colours, aims to enlighten consumers about the characteristics and composition of products. The systems rate various factors such as nutritional quality, environmental impact, energy efficiency and so on. Present in a wide range of sectors (agrifood, cosmetics, textiles, toys, household appliances, interior design and tourist accommodation), the rating systems are developed and distributed by different types of players.

The Autorité has decided to study the competition issues that may arise from the systems and will focus in particular on:

- ❶ how the information provided by the rating systems is likely to guide consumer purchasing decisions and thus constitute a parameter of competition;
- ❷ whether the systems encourage companies to innovate to create products or services that are more virtuous in terms of sustainability;
- ❸ how the systems work and are constructed (type of data used, calculation method, etc.) and how the information is delivered to consumers in the form of a rating;
- ❹ the role of the different public and private players involved in developing the systems.

» Press release of 22 February 2024



The Autorité attended the MeetUp Greentech at Station F on 7 and 8 November 2023.



# ADDRESSING THE CHALLENGES OF THE DIGITAL ECONOMY

New services based on the massive use of data are constantly emerging in the economy. In the face of the growing power of the digital economy, the Autorité is committed to understanding how the new activities work, in order to identify the associated competition issues and therefore be in a position to take appropriate action. Guaranteeing that a wide range of players can enter and grow on these markets is a necessary condition for ensuring constant innovation and the emergence of a diversity of business models. To offer rapid and practical responses to all these challenges, the Autorité is taking action on many fronts, leveraging the various instruments at its disposal.

## The application of the Digital Markets Act (DMA)

2024 marks the entry into force of a founding text that ushers in a new era in the European digital market: the Digital Markets Act (DMA). The aim is to combat the anticompetitive practices of the Internet giants and correct the imbalances created by their domination. Since 6 March 2024, the gatekeepers designated by the European Commission must comply with a series of obligations, on pain of heavy penalties (up to 10% of total worldwide turnover, and 20% for repeated infringement). The DMA is an *ex ante* regulation and therefore complements competition law, which sanctions cartels and abuses of dominant position *ex post*. The role of the Autorité in the practical implementation of the DMA, linked with that of the European Commission, has been clarified by a French law empowering the Autorité to conduct investigations based on the DMA, and will be progressively refined as decision-making practice develops.

## A major focus on artificial intelligence (AI)

Artificial intelligence (AI) is becoming a powerful tool, used by both companies and consumers. A disruptive innovation that is transformational for the economy, AI will impact a number of industrial processes, in both manufacturing and services. The technological leap represented by AI is a source of innovation and progress in many fields but also brings its share of concerns, not least of which are competition issues.

While competition authorities traditionally consider innovation to be very positive, fostering the emergence of new players that will be able to challenge a market, the arrival of AI is bringing a paradigm shift since there is a significant risk of the innovation being captured by powerful players that are already dominant in related sectors. The players best placed to produce the innovation are also those with significant market power. Avoiding monopolisation and market foreclosure is therefore a major challenge for all competition authorities, and requires particular vigilance to ensure that AI can be beneficial to the transformation and dynamism of the economy. This is why the Autorité, which had already issued an opinion on the cloud sector, decided to take action and study the entire AI value chain through a sector-specific inquiry. The opinion focuses mainly on the upstream part of the chain, looking at how models (particularly large language models) are designed, trained and deployed. In particular, the analysis focuses on the risks linked to control of access to resources by major digital players: data, financing, processors, storage and computing capacity, cloud computing services and skills (experts, scientists and computer scientists).

The results of the inquiry will provide an overall assessment and concrete recommendations that are in line with the rapid evolution of the sector and useful for political and regulatory debate.

**“We need to avoid recreating another Big Five in the AI sector.”**

**Stéphanie Yon-Courtin,**  
Member of the European Parliament



## Ongoing cases

The Autorité is playing an active role in tackling anticompetitive practices by digital players. The Investigation Services are currently conducting proceedings against Apple concerning the distribution of applications on iOS mobile terminals. The General Rapporteur notified the Apple group of an objection in July 2023, concerning practices likely to have consequences on several related advertising and consumer services markets.

»» Press release of 25 July 2023

Dawn raids were also conducted in the graphics card sector, which is a key input for cloud computing and artificial intelligence.

»» Press release of 27 September 2023

The Autorité is also continuing to explore the use of AI to support its own procedures, in cooperation with the sector-specific authorities, administrations and courts concerned.

## The fight against anticompetitive practices

The Autorité continued to tackle major digital cases, in particular by issuing interim measures against Meta in the ad verification sector (complaint from Adloox). Pending its decision on the merits, the Autorité ordered Meta to define and make public new criteria for accessing and maintaining its partnerships (visibility and brand safety) that are objective, transparent, non-discriminatory and proportionate. It also ordered Meta to rapidly admit Adloox to the partnerships, provided that Adloox meets the new access criteria.

»» Decision 23-MC-01 of 4 May 2023  
[for further details, see p. 44]

With regard to related rights, in March 2024 the Autorité fined Google €250 million for non-compliance with several of its commitments made in June 2022. As Google undertook not to contest the facts, it was able to benefit from the settlement procedure and also proposed a series of corrective measures to address the identified breaches, which the Autorité acknowledged. As a reminder, this was the fourth decision issued by the Autorité in this case in four years.

These decisions come against the backdrop of the adoption of the French law of 24 July 2019 on related rights (transposing an EU directive), which aims to redefine, to the benefit of players in the press sector, the sharing of value between these players and to address the profound changes affecting the press sector for several years. One of the breaches sanctioned concerns the “Bard” artificial intelligence service launched by Google in July 2023 (since renamed “Gemini”). The Autorité found that Google had used content from press agencies and publishers when training its model, without notifying either them or the Autorité. Google subsequently linked the use of the

content concerned by its artificial intelligence solution to its display on services such as Search, Discover and News, without offering press agencies and publishers a technical solution to opt out of the use of their content by Bard.

»» Decision 24-D-03 of 15 March 2024  
[for further details, see p. 48]

## Close cooperation with regulators and the French government

To address all these challenges, the Autorité remains in close contact with the French telecoms authority (*Autorité de régulation des communications électroniques, des postes et de la distribution de la presse* – ARCEP) (notably in the area of cloud computing), the French data protection authority (*Commission nationale de l’informatique et des libertés* – CNIL) (as part of the implementation of the joint declaration adopted in December 2023), and the French audiovisual and digital communication regulator (*Autorité de régulation de la communication audiovisuelle et numérique* – ARCOM) to anticipate the impact of digital developments on the French audiovisual landscape and draw conclusions from the *États généraux de l’information* (a series of working groups set up by the French government to gather feedback and make proposals on the information sector). The Autorité is also continuing its dialogue with the French government to ensure effective complementarity, in the digital area, between regulation and the application of competition law.





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# ACTIVE IN EVERY FIELD



The Autorité de la concurrence takes action in all sectors and at all levels, in order to boost the economy and unlock potential.







## Interim measures against Meta

Following a complaint by French company Adloox and pending a decision on the merits of the case, the Autorité ordered interim measures against Meta, whose practices were likely to constitute an abuse of dominant position in online advertising services and, more specifically, in ad verification services.

### *The ad verification sector*

In the online advertising sector, ad verification refers to the processes intended to verify the quality of an ad inventory or an ad impression.

Ad verification has three main objectives for ensuring the quality of online advertising:

- ❶ **viewability**, which consists in checking that an ad has actually been seen by an Internet user;
- ❷ **fraud detection**, including invalid traffic from machines or robots;
- ❸ **brand safety**, which is intended to verify that an ad is not displayed in an environment that could harm the interests and values of the brand, and **brand suitability**, which is intended to verify that an ad is displayed in an environment that, according to the advertiser's own criteria, best matches the brand and its values.

This type of service can be offered by integrated advertising platforms (such as Meta) on their own ad inventories, as well as by specialised independent operators (such as Adloox) that offer more accurate and granular measurements. In order to cover integrated platforms' inventories, the independent verifiers need access to their ecosystems.





### Meta's partnerships

Following criticism from advertisers about the actual audience and context of display ads on certain platforms, including Facebook, Meta set up two ad verification service partnerships with independent third parties: the viewability partnership in 2015 and the brand safety partnership in 2019.

As part of the partnerships, Meta collects, processes and provides data to its partners so that they can offer their verification services on its inventories (in particular on Facebook and Instagram). Three viewability partners (DoubleVerify, Integral Ad Science and Oracle Moat) and three brand safety partners (DoubleVerify, Integral Ad Science and Zefr) offer their services on Meta's ad inventories.

### The practices reported by Adloox

Adloox considers that Meta, which occupies a dominant position on the French online advertising market, has, since 2016, discriminated against the company by refusing access to its viewability and brand safety partnerships, even though Adloox is in a similar situation to other companies that have been able to access

the partnerships. Adloox also believes that Meta is abusing its dominant position, by imposing unfair access conditions and only granting partial access to its ecosystem. In parallel to its complaint on the merits of the case, Adloox requested interim measures, intended in particular to order Meta to include the company in the partnerships.

### Practices likely to constitute an abuse of dominant position

At this stage of the investigation, the Autorité considers that Meta is likely to have a dominant position on the French market for online advertising on social media, with a market share by value of almost 70%, as well as on the broader market for online non-search advertising. As a result, Meta has a particular responsibility not only with regard to its dominant position but also because it controls infrastructure to which access is essential for the growth of downstream operators. Given the significant ad spend on Meta's platform, it is regarded as a key partner for independent verifiers.

Moreover, the Autorité considered that Meta has implemented various practices that could constitute an abuse of dominant position:

- ❶ first, **Meta has not defined transparent, objective, non-discriminatory and proportionate criteria for accessing and maintaining the viewability and brand safety partnerships**, and admitted its current partners to the partnerships following an opaque procedure that only Meta could initiate. Meta's approach is therefore inconsistent with its specific responsibility as the dominant operator and regulator of the independent ad verification market on a platform that accounts for a substantial portion of advertisers' ad spend;
- ❷ second, **the refusal to grant Adloox access to the partnerships is likely to be qualified as discriminatory**, as Adloox is in a comparable situation to that of certain operators that have been able to access the partnerships, with regard to the conditions allegedly applied by Meta. Furthermore, the exchanges between Meta and Adloox reveal that Meta never intended to integrate Adloox, and several exchanges appear to be purely delaying tactics.



### Serious and immediate harm to the sector and the interests of the complainant

The Autorité considered Meta's practices to have caused serious and immediate harm to the independent ad verification sector, insofar as they resulted in the oligopolistic structure of the market becoming more entrenched. Access to Meta's ecosystem is crucial for independent ad verifiers, given advertisers' large spend on its inventories, but also the growing demand from their clients for a single offering that covers all online advertising channels. By creating artificial barriers to entry and expansion, such practices significantly hinder the development of the ad verification sector and the incentives to innovate. The extent of these practices is all the more serious as they are being implemented in the context of the forthcoming opening up of the independent ad verification market. In the Digital Markets Act (Regulation 2022/1925 of 14 September 2022), the European legislator has laid down an obligation for the main advertising platforms to provide free access to all the data necessary for the independent verification of their ad inventories.

The Autorité also considered these practices to have caused serious and immediate harm to the interests of Adloox, whose inability to provide its verification services on Meta deprives the company of an important growth driver and is likely to

### Discriminatory refusal of access = market foreclosure in the near future

Meta was well aware of the consequences for Adloox of its refusal to integrate the company into its partnerships. For example, one of Meta's employees wrote in an internal mail in 2017: "[I] don't think that it's strategically necessary for us to integrate Adloox, but it'll likely kill its business [...]". In another internal exchange on 25 February 2019, Meta stated with reference to Adloox's founder: "his business will die soon".

» Decision 23-MC-01, classification marks VC 7870 (VNC 11077) and VC 8439 (VNC 17696)

result in the loss of its current clients. In this respect, the Autorité found that Adloox's business had declined significantly since 2017, concomitantly with Meta's refusal to admit the company to its ecosystem, while the business of its competitors admitted to the ecosystem had grown significantly. The refusal of access for Adloox could therefore lead, before the end of the investigation into the merits of the case, to its foreclosure from the market.

### The interim measures issued

The Autorité therefore ordered Meta to define and make public new criteria for accessing and maintaining the viewability and brand safety partnerships that are objective, transparent, non-discriminatory and proportionate. Meta will have to implement the criteria according to a transparent access procedure, which cannot be based on its own discretion. The Autorité also issued measures intended to accelerate Adloox's admission to the partnerships, in the event that its request for access, made based on the new criteria to be adopted by Meta, is accepted. These interim measures are in effect until the Autorité issues its decision on the merits of the case. During this period, and in order to ensure their effectiveness, Meta must send the Autorité regular reports on their implementation.

» Decision 23-MC-01 of 4 May 2023, press release of 4 May 2023

# 70%

Meta's market share in online advertising on social media.





RELATED RIGHTS

# €250 million fine against Google for non-compliance with commitments



The Autorité imposed a fine of €250 million on Alphabet Inc., Google LLC, Google Ireland Ltd and Google France for failing to comply with certain commitments made in June 2022.

### Background

This was the fourth decision issued by the Autorité in this case in four years. These decisions came against the backdrop of the adoption of the French law of 24 July 2019 on related rights (transposing the EU Directive on copyright and related rights of 17 April 2019), aiming to create the necessary conditions for balanced negotiations between press agencies, publishers and digital platforms. This legislative framework aimed to redefine,

to the benefit of players in the press sector, the sharing of value between these players and to address the profound changes affecting the press sector for several years, in particular the growth of digital audiences, concomitant with the decline in print circulation, and the fact that a significant share of advertising value is now held by the major digital platforms.

After ordering interim measures in the form of injunctions in April 2020 (Decision 20-MC-01 of 9 April 2020), in July 2021 the Autorité

found that Google had not complied with these injunctions and imposed a fine of €500 million, as well as ordering Google to comply, under penalty payment, with the initial injunctions.

»» Decision 21-D-17 of 12 July 2021

Subsequently, ruling on the merits of the case, in Decision 22-D-13 of 21 June 2022, the Autorité accepted, for a period of five years, renewable once, the commitments proposed by Google to create a framework for negotiation and the sharing of the

information necessary for a transparent assessment of the remuneration of related rights.

In this context, the Autorité approved the appointment of Accuracy as monitoring trustee to monitor and oversee the implementation of Google's commitments.

### A new stage

The Autorité sanctioned Google for breaching its commitment to cooperate with the monitoring trustee and failing to comply with several commitments.

### Good faith negotiation of remuneration based on transparent, objective and non-discriminatory criteria

In particular, the Autorité noted the opacity and incompleteness of the methodology note that Google was to send to the negotiating parties at the same time as its remuneration offer. It also considered that the introduction of a "minimum threshold" for remuneration, below which Google would not remunerate publications, introduced discrimination between publishers, insofar as no account was taken of their respective situations. Lastly, with regard to so-called indirect revenues, the Autorité also considered that the "lump sum" proposed by Google in the various versions of its methodology note was not consistent with its previous decisions or with the ruling of the Paris Court of Appeal of 8 October 2020 (breach of Commitments 1 and 4).

### Incomplete information provided by Google, not covering all the revenues derived from the use of protected content, in particular indirect revenues

The Autorité specifically highlighted a lack of consistency between the information provided and the remuneration offers made by Google, as well as their fragmented nature. It also noted that Google had severely limited the communication of data for assessing indirect revenues (breach of Commitment 2).

### The question of related rights in the development of artificial intelligence tools

The Autorité found that Google had used content from press agencies and publishers when training its Bard service (renamed "Gemini" since 8 February 2024), without notifying them or the Autorité, in breach of the principle of transparency (Commitment 1).

Google subsequently linked the use of the content concerned by Bard to its display on the Search, Discover and News services, without offering press agencies and publishers a technical solution to opt out of the use of their content by Bard (breach of the principle of the neutrality of negotiations with regard to other economic relationships – Commitment 6). As Google undertook not to contest the facts, it was able to benefit from the settlement procedure. Google also proposed a series of corrective measures to address certain breaches identified by the Autorité.

»» Decision 24-D-03 of 15 March 2024



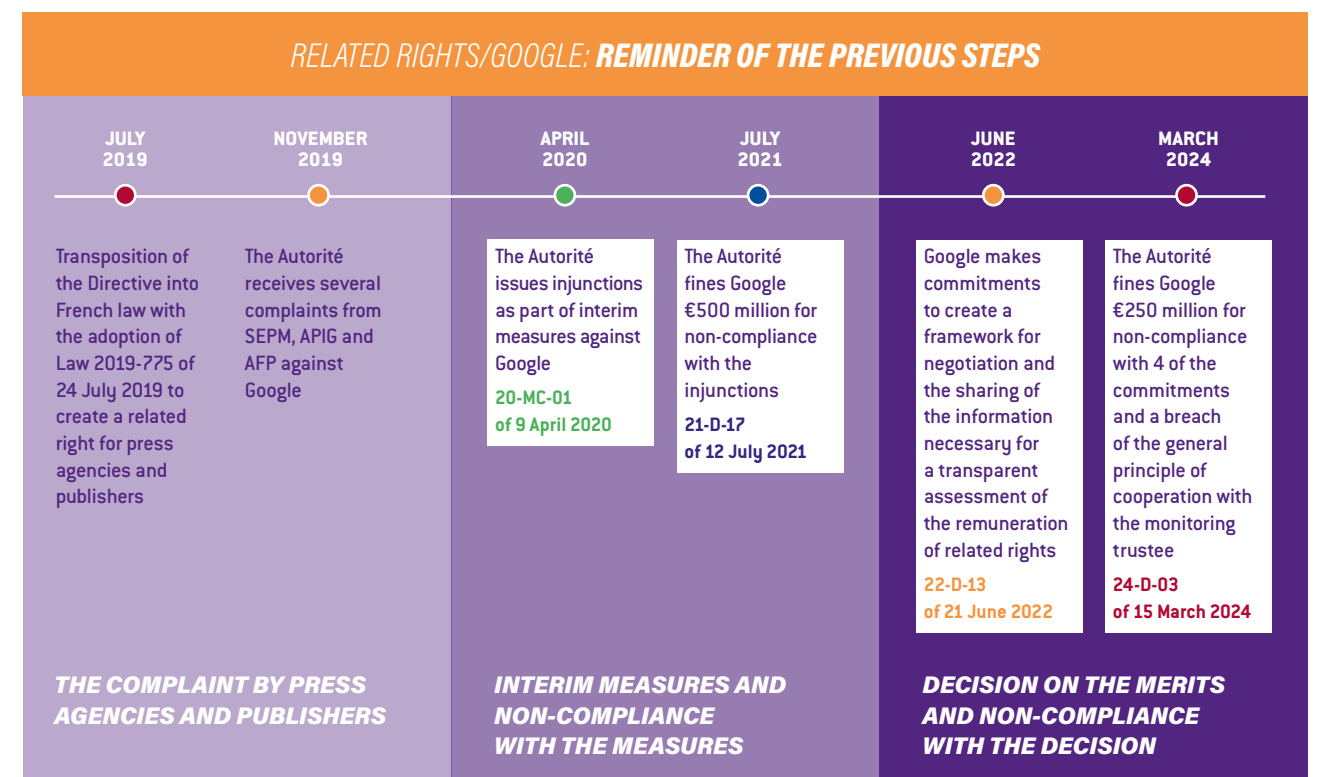
Publication by the Secretary of State for Digital Affairs on X 20 March 2024

Reliable, sourced and trusted information is priceless, but it does have a cost.

The Autorité de la concurrence has issued Google with a reminder of this today, ordering the company to meet all its commitments to press agencies and publishers under the European rules on remuneration for online media.

Quite simply, it's about respecting the work and content of our journalists and editorial teams.

Marina Ferrari

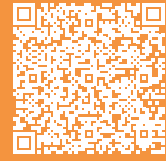




# DIGITAL PANORAMA

## CLOUD

Opinion on certain provisions of the draft Law to Secure and Regulate the Digital Space (SREN)



Opinion 23-A-05 of 20 April 2023

Results of the sector-specific inquiry into competition in the cloud sector



Opinion 23-A-08 of 29 June 2023

## SUPPLY OF VIDEO GAME CONTROLLERS FOR PS4

Sony fined €13.5 million for abuse of a dominant position



Decision 23-D-14 of 20 December 2023

## ADVERTISING ON iOS MOBILE APPLICATIONS

Notification of an objection to the Apple group



Press release of 25 July 2023

## ONLINE AD VERIFICATION

Interim measures ordered against Meta



Decision 23-MC-01 of 4 May 2023

## DATA PROTECTION AND COMPETITION

The French data protection authority (CNIL) and the Autorité de la concurrence sign a joint declaration



Press release of 12 December 2023

## GRAPHICS CARDS

Dawn raid



Press release of 27 September 2023





## A panoramic sector-specific inquiry



Reviewing all its past recommendations, the Autorité conducted an unprecedented stocktaking exercise in the land passenger transport sector. This wide-ranging exercise was also an opportunity to look at the competitive functioning of the sector as a whole, and to update its analysis to take account of legislative and regulatory changes and incorporate two additional dimensions - intermodality and sustainability.

The diversity, efficiency and cost of land passenger transport are essential issues, whether for the proper functioning of the French production system and employment market, for the French people to access education, training and health, or for social and regional cohesion. In addition, French work to reduce greenhouse gas emissions relies critically on the transport sector, the main emitter of greenhouse gases.

Noting that the sector had evolved significantly in recent years, particularly under the impulse of new European legislation, and with contracted rail transport preparing to open up to competition, the Autorité announced on 19 December 2022 that it had started inquiries *ex officio*, in order to conduct an unprecedented stocktaking exercise.



Its review was informed by the results of a public consultation from 3 to 31 March 2023 (36 contributions), as well as by its discussions with all the players in the sector: the French transport regulator (Autorité de régulation des transports – ART), the ministries concerned, several regions and cities, SNCF Réseau, SNCF Gares & Connexions, the French Rail Association (Association française du rail – AFRA) and the French National Federation of Transport Users' Associations (Fédération nationale des associations d'usagers des transports – FNAUT). Its analysis was also based on a number of public reports and documents, including those of the ART, the French Court of Auditors (Cour

des comptes), the French Centre for Studies and Expertise on Risk, Mobility and Development (Centre d'études et d'expertise sur les risques, la mobilité et l'aménagement – CEREMA), the French Ecological Transition Agency (Agence de la transition écologique – ADEME) and the relevant ministries.

### A review of past recommendations and an overall assessment

For the first time, the Autorité took a systematic look at the implementation and effects of its past recommendations in a given sector. It also updated its analysis of the competitive landscape in the sectors concerned to incorporate the new dimensions of intermodality and sustainability, and take account of legislative and regulatory developments.

The 250-page document provides an overall assessment, broken down as follows:

- 📌 **markets where there is permanent competition:** freely organised intercity road transport ("Macron coaches"), freely organised rail transport and private public passenger transport (taxis and private-hire vehicles [PHVs]);
- 📌 **markets where competition takes place during tender processes:** contracted urban transport, intercity road transport and rail transport;
- 📌 railway, bus and multimodal stations;
- 📌 the question of intermodality.



Watch or replay our Mobility webinar, which brought together a number of players and specialists from the sectors concerned.



## An unprecedented stocktaking exercise



### New recommendations and best practices

While the Autorité issues specific recommendations for each market, it notes across the board that competition is not only a factor in lowering the cost and improving the quality and diversity of the offer, but also plays a key role in the ecological transition of the sector.

Competition offers new levers for a sustainable transport policy, whether in the freely organised or contracted transport markets.

#### Freely organised services

For markets where there is free competition between several operators, the recommendations target a number of barriers to entry that need to be lifted, as well as factors likely to favour the historic rail monopoly-holder over its competitors.

#### Contracted transport

With regard to contracted transport, the Autorité notes that public procurement plays a central role in the competitive process, since the mobility organising authorities choose the contract holders following public calls for tender. Concerning urban transport, the Autorité notes that the sector is characterised by low competitive intensity. In terms of rail transport, the Autorité notes that, from 25 December 2023, any new contract for the operation of a contracted regional rail transport service (currently operated under the regional TER brand by SNCF Voyageurs) must be subject to competitive bidding. In view of the competitive challenges involved in competitive bidding processes, the Autorité makes recommendations, in the form of

## Competition is not only a factor in lowering the cost and improving the quality and diversity of the offer, but also plays a key role in the ecological transition of the sector.

best practices to be implemented, for local and regional public authorities, to encourage competition between operators in their calls for tender.

#### Stations and intermodality

With regard to stations, the Autorité recalls their multimodal nature and considers that opening up the sector to competition requires a rethinking of the station model. The Autorité therefore calls on all stakeholders, and local and regional public authorities in particular, to take up this issue.

#### Sustainability

Lastly, to support the transformation of the land passenger transport sector as part of the ecological transition, the Autorité

recommends that the legislator amend the French Transport Code (Code des transports), so that the ART can have a legal basis that more clearly enshrines environmental protection and regional development in its missions.

#### The role of the ART

In general terms, the Autorité reaffirms its support for the sector-specific regulator, whose role is crucial to the success of opening up to competition, and whose resources and prerogatives could usefully be strengthened.

» Opinion 23-A-18 of 29 November 2023 on land passenger transport

### Opening up to competition The crucial role of the regions

Contracted rail transport was opened up to competition by the 2018 Law for a New Rail Deal. The Provence-Alpes-Côte d'Azur (PACA) region is a forerunner here, having launched a competitive bidding process in 2019 for the operation of two TER lots, one of which was won by SNCF Voyageurs and the other by Transdev. The Hauts-de-France region also put out a call for tender for the "Étoile d'Amiens" lot, which was ultimately won by SNCF Voyageurs.

Competitive bidding seems to be showing its first effects. In the PACA region, for example, SNCF Voyageurs has committed to a regularity target of 98.5% and a 9.5% increase in train kilometres. In addition to lowering service costs, opening up to competition gives regions greater freedom, particularly in the terms of the contract signed with an operator. Regions can, for example, choose to promote intermodality and sustainability, or demand an increase in the offer.





# TRANSPORT & ENVIRONMENT PANORAMA

## MOBILITY

Opinion on the competitive functioning of the land passenger transport sector



Opinion 23-A-18 of 29 November 2023

## ELECTRICITY

The French energy regulator (CRE) and the Autorité de la concurrence send a letter to the French government containing proposals to ensure fair competition in the implementation of the electricity market reform



Letter to the French government of 20 December 2023  
Press release of 16 January 2024

## INTRA-CARIBBEAN REGIONAL AIR TRANSPORT

Notification of objections to three companies



Press release of 21 March 2023

## TURBINE-ALTERNATOR SETS

The Autorité clears the acquisition by EDF of sole control of the GE Steam Power division of the General Electric group



Decision 23-DCC-98 of 24 May 2023

## ELECTRIC SCOOTERS

The Autorité clears the acquisition of joint control of Cityscoot by RATP and Caisse des Dépôts et Consignations, without conditions



Decision 23-DCC-77 of 16 May 2023

## NUCLEAR DECOMMISSIONING

Six companies fined for anticompetitive agreements in calls for tender organised by the French Alternative Energies and Atomic Energy Commission (CEA) for the Marcoule (Gard) site



Decision 23-D-08 of 7 September 2023

## CONCESSION CATERING

The Autorité clears the creation of a full-function joint venture between Select Service Partner and Aéroports de Paris, without conditions



Decision 23-DCC-165 of 3 August 2023

## ELECTROMOBILITY

Opinion on the competitive functioning of electric vehicle charging infrastructure (EVCi)



Opinion 24-A-03 of 30 May 2024





## A major cartel sanctioned



**€20  
million**  
*in fines.*

Four professional organisations and 11 food companies were fined nearly €20 million for having implemented, over a four-year period, a collective strategy intended to prevent manufacturers in the sector from competing on the presence, or absence, in food containers of Bisphenol A (BPA), a substance that is harmful to health.

### **A context of transition**

Bisphenol A (BPA) is a synthetic chemical used in the manufacture of resins, in particular to protect the inside of metal food containers (tins, cans, lids). Considered an endocrine disruptor, its presence in food containers has become a public health issue. France was the first European country to tackle the issue of BPA, banning the use of BPA in baby bottles on 1 January 2013 and then in all packaging, containers and utensils intended to come into contact with food as of 1 January 2015.

The application of the law has necessarily had consequences for industrial companies specialised in food packaging, which have had to develop alternative solutions and incur research costs. In order to allow stocks to be used up, a specific transitional arrangement was put in place by the Directorate General for Competition Policy, Consumer Affairs and Fraud Control (DGCCRF). Empty containers with BPA and the food packaged in those containers, already in circulation prior to 1 January 2015, could still be sold after this date until stocks had been used up.



**The implementation of a collective non-competition strategy covering the entire value chain**

The Autorité found that the French Federation of Preserved Food Industries (Fédération des industries d'aliments conservés – FIAC) had organised a cartel intended to encourage manufacturers not to compete on the presence, or absence, of BPA in their cans, and to coordinate the communication aimed at consumers on this issue.

The practices were part of an overall plan to neutralise the competition risks arising from the introduction of BPA-free food containers on the market.

Two types of practices were implemented from 6 October 2010 to 21 July 2015, i.e. over a period of more than four years.

**Preventing manufacturers from communicating on the absence of BPA in their food containers:**

❶ the FIAC, and then the French Association of Processed Food Companies (Association des entreprises de produits alimentaires élaborés – ADEPALE) and

the French National Association of Food Industries (Association nationale des industries alimentaires – ANIA), informed canned food manufacturers of the importance of not competing on the presence, or absence, of BPA in their food containers;

❷ this collective strategy was extended upstream to can manufacturers, through the actions of the French can manufacturers' trade union (Syndicat national des fabricants de boîtes, emballages et bouchages métalliques – SNFBM);

❸ efforts were also made to extend this strategy downstream to the mass retail distribution sector, but these were unsuccessful;

❹ deviations from the cartel were monitored, as several players decided to communicate on the absence of BPA in their products.

**Encouraging manufacturers to refuse to supply BPA-free cans before 1 January 2015 and then to refuse to stop selling cans with BPA after this date,** despite the demands of the mass retail distribution sector to this effect.

**Call to order and collective discipline**

The various professional associations involved monitored behaviour that deviated from the cartel, speaking with several players that had decided to communicate on the absence of BPA in their products. For example, the FIAC wrote to Andros following a report about the logo used ("Packaging guaranteed Bisphenol A-free" on a food can), stating:

*"As you know, the position of the FIAC to date on the Bisphenol A issue has been not to use the absence of Bisphenol A as a selling point. [...] Today, we have been alerted to the fact that one of your products displays a "Bisphenol A-free" logo; I must [...] remind you that the use of such logo is therefore not recommended by the profession [...]."*

» Decision 23-D-15, classification mark 1652, Adepale file, Appendix 12

**The practices were very serious, as they meant that consumers were unable to choose BPA-free products, at a time when they were available and when BPA was already considered dangerous to health.**

**The fine imposed**

Three professional canning associations, the can manufacturers' trade union and 11 companies were fined a total of €19,553,400.

The companies were sanctioned in their capacity as members of the collective organisations. For the most part, their individual participation took the form of attending meetings organised by their associations or trade unions, the purpose of which was anticompetitive. The companies were the canners Andros, Bonduelle, Charles & Alice, Cofigeo, Conserves France, D'Aucy, General Mills and Unilever, and the can suppliers Ardagh, Crown and Massilly.

The Autorité considered the practices to be very serious, as they meant that consumers were unable to choose BPA-free products, at a time when these products were available and when BPA was already considered dangerous to health.

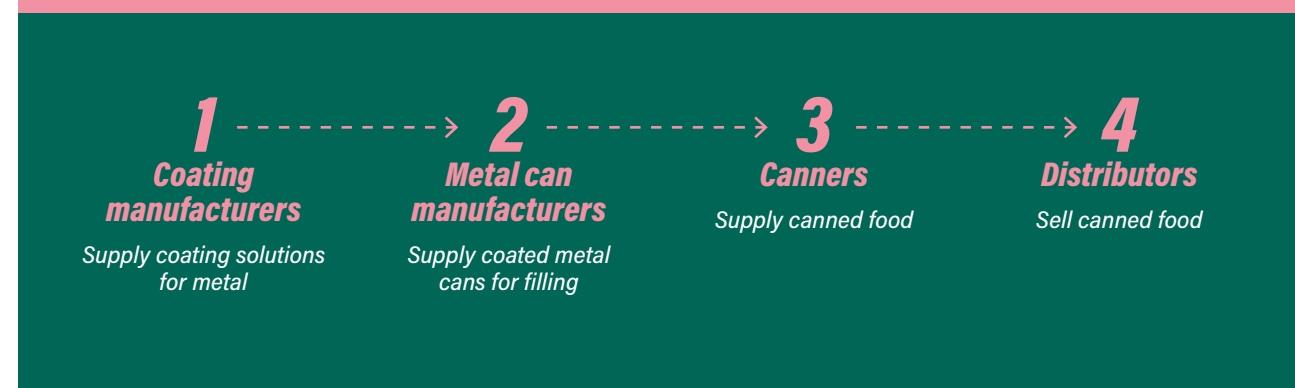
Nevertheless, the Autorité departed from the Notice on Fines, taking into account the diversity of the entities involved, in terms of both their economic heft and their role within the sector: on the one hand, the professional organisations sanctioned as directly responsible for the practices in question; on the other, the companies sanctioned as members of these organisations, on account of their individual participation. The Autorité considered that, in this context, applying the Notice on Fines would have led to disproportionate fines being imposed on the companies.

The Autorité also took into account the specific legal and regulatory framework in which the practices in question took place, and the actions of the authorities vis-à-vis the players in the sector, as mitigating factors.

» Decision 23-D-15 of 29 December 2023



RETAIL CANNED FOOD VALUE CHAIN





**BAKERY EQUIPMENT**

Bongard and the Bongard Dealers' Association fined nearly €3 million for price fixing. The same entities and the Euromat purchasing office were also sanctioned for practices that restricted passive sales



Decision 23-D-05 of 18 April 2023

**LUXURY TEAS**

Marriage Frères fined €4 million for hindering its distributors' commercial freedom



Decision 23-D-12 of 11 December 2023

**LUXURY WATCHES**

Rolex fined €91 million for prohibiting its authorised retailers from selling its watches online



Decision 23-D-13 of 19 December 2023

**DISTRIBUTION & CONSUMER GOODS**

**PANORAMA**

**PRODUCTION/ DISTRIBUTION OF FOOD AND NON-FOOD CONSUMER PRODUCTS**

Unannounced hearings, followed by dawn raids



Press releases of 18 October and 27 November 2023

**BOTTLED WATER**

The Autorité clears the acquisition of Make Distribution by the IBL group



Decision 23-DCC-137 of 30 June 2023

**CHAMPAGNES**

Several Arvitis group companies and two wholesale-importers fined for maintaining exclusive import rights on Canard-Duchêne champagnes in the French overseas territories



Decision 23-D-02 of 8 March 2023

**GENERAL MERCHANDISE AND DECORATION**

The Autorité clears the takeover of Bricolex stores by the Gifi group, subject to conditions



Decision 23-DCC-57 of 21 March 2023





## MEAL VOUCHERS

# Recommendations for better sector regulation

**€8.5 billion**

*The total face value of meal vouchers issued in 2022.*  
Source: CNTR



In response to a request by the French Minister of the Economy regarding the appropriateness of introducing a cap on the commissions charged to merchants, the Autorité issued an opinion recommending that the French government, as a priority, make paperless vouchers mandatory, seek a structural solution to redress the balance of power in the market, and introduce appropriate regulation for the sector.

### **Background to the French government request**

The meal voucher market has grown steadily since 1999, with the total face value issued increasing three-fold. The special payment instruments are today used by over five million employees to pay for meals and food services at some 234,000 merchants approved by the French National Meal Vouchers Commission (*Commission nationale des titres-restaurant* – CNTR).

Given the significant imbalance between the relatively low commissions paid by companies purchasing meal vouchers for

their employees, on the one hand, and the relatively high commissions paid by approved merchants, on the other, the French government was considering the possibility of capping the latter. The government was also looking at a scenario of all meal vouchers being paperless. Against this backdrop, the French Minister of the Economy, Finance and Industrial and Digital Sovereignty asked the Autorité to issue an opinion on the appropriateness of a regulatory framework for the value of the commissions collected by meal voucher issuers from merchants approved by the CNTR.



# 99%

**The combined market share held by the incumbent issuers in the meal voucher market.**

## The existence of market failures

At the end of the investigation, the Autorité noted the existence of market failures, foremost among which were barriers to entry, expansion and innovation, and above all the market power of the four incumbent issuers.

## The barriers to entry

In its opinion, the Autorité noted in particular the existence of network effects and economies of scale, both of which are likely to give a competitive advantage to companies of a certain size and with a reputation and legitimacy due to their historical presence. The Autorité also found certain obstacles to paperless vouchers and to the growth of new players, in particular the significant inertia of demand from

corporate customers and the reluctance of some of them to adopt paperless solutions. Lastly, the Autorité noted the existence of quasi-regulatory barriers.

## The market power of the four incumbent issuers

The Autorité noted that the market is highly concentrated, with the four main issuers [Edenred France, Bimpli-Swile, Sodexo Pass France and UpCoop] accounting for over 99% of the market in 2022. New paperless entrants such as Benefiz, Dunia, Octoplus, Open, WiiSmile and Worklife only have a very small market share (combined share of less than 1% in 2022). Furthermore, each issuer has exclusive rights to its issued vouchers since, in the current state of the market, only the issuer itself can acquire its issued vouchers and reimburse the merchants.

## Steadily rising commission levels for merchants

The Autorité noted that the gradual shift in commission rates from the “issuing” side to the “acceptance” side, already seen between 2010 and 2016, continued between 2018 and 2022 for the incumbent issuers. This shift is due, in particular, to the low bargaining power of merchants that, in practice, can ill afford to lose sales by refusing widely distributed meal vouchers. Average effective commission rates on the issuing side (commissions paid by corporate customers) fell between 2018 and 2022, with the average commission rate even becoming negative for some issuers. Conversely, on the acceptance side, average effective commission rates (commissions paid by merchants) increased over the same period.

## The recommendations

### 1 / Do not introduce a price cap

For the Autorité, the introduction of the proposed price cap is not the most appropriate response to the market failures and could have uncertain or even counterproductive effects. Experience shows that, in practice, a “cap” generally becomes a “focal point”, i.e. a price towards which the rates charged by the companies concerned converge. As a result, any issuer whose acceptance commission rates are usually set below such a regulatory cap will tend to align its rates with the cap, to the detriment of consumers.



Furthermore, issuers may seek to compensate for the loss incurred (increase in their margins, compensation effect), with the ultimate risk of a fall in demand for meal vouchers.

Moreover, determining the level of the cap and monitoring its effectiveness would raise tricky implementation issues. If the French government decides to introduce a cap on commissions, a thorough assessment of all the elements required for its implementation would have to be conducted, particularly in terms of communication on the amounts actually invoiced, monitoring of the implementation of the measure, and an assessment of its overall impact on the acceptance and issuing sides.

### 2 / Introduce appropriate sector regulation

Finding that the functioning of the market shows the existence of unregulated exclusive rights, the Autorité recommends the introduction of an accreditation for meal voucher issuing, based on objective criteria, by a body that would provide guarantees of independence and impartiality. In addition, to ensure improved information concerning the identity of meal voucher issuers, with regard to both corporate customers and approved merchants, the Autorité considers that a comprehensive register of companies actually issuing meal vouchers should be made public, in accordance with current regulations.

### 3 / Reduce the market power of each issuer

Based on the finding that the source of the main failure in the market lies in the imbalance of power between each issuer, which holds a monopoly over its issued vouchers, and fragmented demand for the vouchers on the acceptance side (234,000 approved merchants), the Autorité supports the introduction of a structural measure to redress the balance of power in the market, by separating the issuing of meal vouchers from their acquisition, in order to reinject competition on the acceptance side.

In practice, this objective could be achieved by making meal vouchers fungible with each other, i.e. by removing the exclusivity of each issuer to its issued vouchers, so that merchants could remit all the meal vouchers received in payment to the intermediary of their choice, which would then negotiate the volumes remitted and the applicable commission rate with each issuer. An alternative would be for approved merchants to pool their negotiating power, for example via a central purchasing office.

### 4 / Accelerate paperless vouchers

To remedy the low market penetration of new issuers and the complexity of the pricing schedules observed for paper vouchers, the Autorité believes that accelerating the end of the latter and making paperless vouchers mandatory are

appropriate measures on both sides of the market:

- ❶ on the issuing side, paperless vouchers would enable a substantial part of the market to be reopened to competition, as new entrants would be in a position to canvass corporate customers;
- ❷ on the acceptance side, merchants could benefit from lower processing and reimbursement costs. The single paperless voucher format would also simplify the work of authorised merchants.

Paperless vouchers would encourage issuers to be more innovative and would eliminate the costs associated with the processing of paper vouchers for the incumbent issuers.

### 5 / Make pricing more transparent

To remedy the difficulty for merchants in anticipating the costs associated with accepting meal vouchers, due in particular to the complexity of some issuers' pricing schedules, the Autorité recommends that pricing be made more transparent and easier to understand. This objective could be achieved by introducing an obligation to display the equivalent of an overall effective rate, which would include both the acceptance commission and all the ancillary costs.

» Opinion 23-A-16 of 12 October 2023

## A TWO-SIDED MARKET





# Towards a turnkey reform

The financial stakes involved in a property purchase and the impact on the lives of the purchasers make property brokerage a highly regulated activity. Following a request by the French Minister of the Economy, the Autorité issued an opinion on the functioning of the property brokerage market and made recommendations on how the regulations could be adapted. Its recommendations are aimed primarily at improving the quality of the services provided and reducing their cost, against a backdrop of sharply rising interest rates and the challenges of energy renovation. Below is an overview.



## High stakes for households

Housing is the main item of expenditure and investment for households, and home ownership is a way for many to build assets and ensure financial security. France has a strong home ownership culture, with 57.4% of households owning their main residence. Commission rates are particularly high, averaging 5.78% incl. VAT in 2022, well above the EU average of around 4% incl. VAT.

## An ageing regulatory framework for a sector that has undergone profound change

In 1960, the French legislator introduced the principle of prior authorisation for the exercise of the property brokerage profession, as well as a ban on receiving any remuneration whatsoever prior to the actual completion of the sale. This legal framework, which is laid down in the so-called Hoguet Act, was intended to professionalise the property brokerage profession, restore household confidence in the profession, and protect households in what is one of the most important transactions of their lives. Fifty-three years after the system came into force, the Autorité found that the way the market operates has changed radically, notably with the rise of digital technology and open data, as well as the emergence of new players (commercial agents, online property search platforms) and new services (property coaching and ibuyers).

**5.78%**  
Average French commission rates.

**vs.**

**4%**  
Average European commission rates.

**Bringing the commission rates charged by brokerage professionals in France into line with the European average could generate an annual gain of nearly €3 billion for households.**

## A reform to boost purchasing power and access to housing

In its opinion, the Autorité notes that the Hoguet Act is a barrier to innovative services and lower commission rates, and estimates that bringing the commission rates charged by brokerage professionals in France into line with the European average could generate an annual gain of nearly €3 billion for households. The Autorité also found that the Hoguet Act was no longer in line with current practices, since new players not subject to its provisions are now offering similar services, without any particular increase in the number of legal proceedings. Furthermore, while the rise of digital technology and the French government's open data policy have helped to reduce the asymmetry of information between property brokers and their clients, there is still progress to be made in terms of consumer protection.

## Recommendations exploring two scenarios

For the first time, the Autorité adopted a turnkey approach by translating its recommendations into legal proposals for legislative and regulatory changes. They are appended to the opinion.

### OPTION 1: REMOVE PROPERTY BROKERAGE FROM THE SCOPE OF THE HOGUET ACT

The first scenario aims to ease the conditions under which property brokers offer their services, with two recommendations:

- ❶ excluding property brokerage for property sales from the scope of application of the Hoguet Act;
- ❷ inserting a provision into the French Consumer Code (*Code de la consommation*) requiring proof of financial guarantee if the broker handles funds.

### OPTION 2: CLARIFY THE SCOPE OF THE HOGUET ACT AND SIMPLIFY THE CONDITIONS FOR ACCESSING THE PROFESSION

**Clarifying the scope of the Hoguet Act**  
The Autorité proposes that a list of the services that fall within the scope of property brokerage and those that do not should be precisely defined, although the list would not be exhaustive.

According to the Autorité, property brokerage involves **selecting clients** and **negotiating the selling price**. As a result, services that do not constitute property brokerage would not be subject to the principle of performance-related remuneration set out in Article 6 of the Hoguet Act.

### Simplifying the conditions for accessing the profession

The Autorité recommends:

- ❶ not making the granting of a professional licence conditional on three years' study after the *Baccalaureate* in an economic, legal or commercial speciality;
- ❷ making the period of professional experience mentioned in Article 14 of Decree 72-678 of July 1972 more flexible and harmonised, and setting the period at four years, regardless of the status of the professional concerned (manager, subordinate employee or person authorised by a licence holder);
- ❸ introducing the principle of performance-based remuneration for liberal professions not subject to the Hoguet Act but authorised to perform property brokerage activities (lawyers, land and agricultural experts, forestry experts, surveyors and notaries).

» Opinion 23-A-07 of 2 June 2023

## 6 MEASURES TO STRENGTHEN ECONOMIC PROTECTION FOR CONSUMERS

Whichever option is chosen, the Autorité recommends that the following measures should be adopted:

- ❶ Introduce an obligation to include in the mandate an exhaustive list of the services provided by the professional, so that the client can be fully informed when negotiating fees.
- ❷ Standardise the rules governing the display of advertisements to improve the clarity of information and limit the effects of fees being passed on from the seller to the buyer.

- ❸ Make online property search platforms subject to the display obligations set out in the 2017 decree on consumer information by professionals involved in a property transaction.

- ❹ Make a summary of the technical report (*dossier de diagnostic technique*) compulsory, to make the information easier to read and understand.

- ❺ Make available to the public, free of charge, the property data held by notaries on property selling prices and the commissions received by property brokers. The property values database (*base de données des valeurs foncières* or *base DVF*), made available to the public free of charge, is not without its biases, which can artificially increase the selling price of a property.

- ❻ Remove the ban on negotiating notaries displaying property advertisements in their office windows.



**ECONOMIC INTELLIGENCE AND BUSINESS INFORMATION PRODUCTS**

Several Bureau van Dijk group companies and Ellisphere fined for price fixing and client allocation



Decision 23-D-04 of 12 April 2023



**HORSE RACE BETTING**

The Autorité clears the takeover of ZEturf by La Française des Jeux, subject to conditions



Decision 23-DCC-191 of 15 September 2023



**CONCESSION CATERING**

The Autorité clears the creation of a full-function joint venture between Select Service Partner and Aéroports de Paris, without conditions



Decision 23-DCC-165 of 3 August 2023



# SERVICES PANORAMA



**ENGINEERING, TECHNOLOGY CONSULTING AND IT SERVICES**

Notification of objections to several companies concerning no-poach agreements



Press release of 23 November 2023



**REPAIR AND REFURBISHMENT OF ELECTRONIC AND HOUSEHOLD ELECTRICAL PRODUCTS**

The Autorité clears the acquisition of control of the SBE group by the Cordon Electronics group, without conditions



Decision 23-DCC-117 of 15 June 2023



**MEAL VOUCHERS**

Opinion to the French government (market analysis and recommendations)



Opinion 23-A-16 of 12 October 2023



**GAMES OF CHANCE**

The French National Confederation of Tobacconists (CNBF) fined for organising boycott practices aimed at hindering the distribution of FDJ games by the Florajet florist network

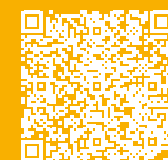


Decision 23-D-09 of 26 September 2023



**MOTORWAY CATERING**

The Autorité clears the acquisition of the Sirestco group by the Areas group, subject to conditions

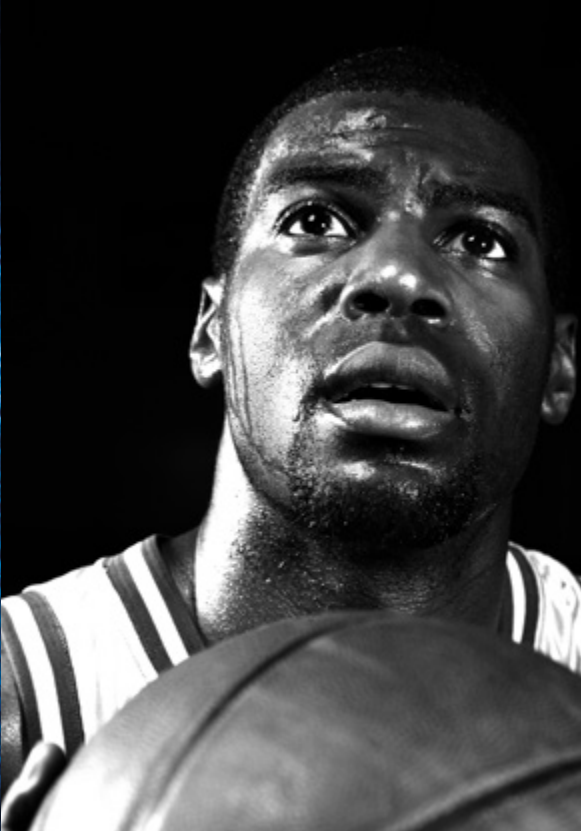


Decision 23-DCC-151 of 25 July 2023





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# THE BOARD OF THE AUTORITÉ

AT 17 JUNE 2024



## Independence and collegiality

The Board of the Autorité is made up of five permanent members (the President and four Vice-Presidents) and 12 non-permanent members. Half of the Board is renewed every two and a half years (with the exception of the President, who is appointed for a renewable period of five years). The aim of the legislator was for the members of the Board to come from a variety of different backgrounds. As a result, judges, law and economics professors, economic leaders, and presidents of professional and consumer organisations all share their points of view during deliberations. This diversity fosters debate and neutrality in deliberations and is, as such, a guarantee of richness and legitimacy.

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Photos above, from left to right.

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Vice-President, Judge
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Professor of Competition Law at Paris I University
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Deputy Financial Director, LVMH group
  - 10. Alexandre Menais**  
Group General Counsel, L'Oréal SA
- Two members are currently being appointed.

## ADDITIONAL NON-PERMANENT MEMBERS DELIBERATING ON MATTERS RELATING TO THE REGULATED PROFESSIONS



- 11. Walid Chaiehloudj**  
Professor of Law at Perpignan University
- 12. Camille Chaserant**  
Senior lecturer (*hors classe*) at Paris I University and Deputy Director of the Sorbonne Economics Centre



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AT 17 JUNE 2024

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**Notice**

When this report was being drafted, certain decisions of the Autorité de la concurrence were still under appeal or were likely to be appealed before the competent courts.

At the time of going to press, the following decisions mentioned in this publication were being appealed before the Paris Court of Appeal: 22-d-04, 22-d-16, 22-d-17 and 22-d-24.

In addition, the presentation of decisions and opinions does not claim to be exhaustive and is intended to inform the general public. Readers are therefore invited to consult the full text of the decisions, opinions and rulings on the websites of the Autorité and the review courts, in order to fully assess the context and scope of the information presented.

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