



ADVOCACY WORKING GROUP
MARKET STUDIES PROJECT

MARKET STUDIES INFORMATION STORE

JURISDICTION:

France - Autorité de la Concurrence

UPDATED: JANUARY 2016

Information Store

France – Autorité de la Concurrence

Sector:	Information Markets and Intellectual Property Rights										
Market:	Standardisation/certification										
End Date:	November 2015										
Duration:	22 months										
Source of idea for study:	Internal										
Outcome (tick relevant columns):	Competition Enforcement	Consumer Enforcement	Consumer Education	Business Education	Voluntary Business Compliance	Voluntary Business Action	Recommendations to Government for Changes in the Law	Recommendations to Government to Change Market Structure	Recommendations for Changes to Government Policy	Referral to Third Parties	No Problems Found
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Reason for study (what were the problems)?	<p>The Autorité decided, on its own initiative, to review the process used in France for standardisation and certification in the light of competition law.</p> <ul style="list-style-type: none"> - By facilitating compatibility and interoperability between products or services, the adoption of standards may benefit competition, as it promotes diversity of offer and allows purchasers to compare goods or services more easily, thus improving competition on the merits. Conversely, a misused standard may restrict market competition. <p>The Autorité recommends streamlining standardisation bodies and their working methods, with the reinforcement of steering by the overseeing body <i>AFNOR</i> and increased transparency during the standardisation process;</p> <ul style="list-style-type: none"> - Regarding the certification activity, the Autorité recommends that the Accreditation committee <i>COFRAC</i> publish a list of areas in which accreditation is necessary, along with associated costs. <i>AFNOR</i> should also better dissociate its activities of public interest from the commercial operations of its subsidiaries. Similarly <i>AFNOR</i> and public authorities should prevent any risk of confusion over the commercial use of the NF mark (<i>Norme Française</i>, or 'French standard'), and draw the implications for NF certification process. - Finally, with special reference to construction and public works sector, the Autorité recommends that the common legal standardisation process be applied to the sector, and that the role of the sector monitoring body be redefined. 										
Link to report:	<p>Press release in English: http://www.autoritedelaconcurrence.fr/user/standard.php?id_rub=607&id_article=2672</p> <p>Full opinion in French: http://www.autoritedelaconcurrence.fr/pdf/avis/15a16.pdf</p>										

Information Store

Sector:	Transport												
Market:	Interregional coach transport services	Range of Possible Outcomes											
End Date:	February 2014	Competition Enforcement Consumer Enforcement Consumer Education Business Education Voluntary Business Compliance Voluntary Business Action Recommendations to Government for Changes in the Law Recommendations to Government to Change Market Structure Recommendations for Changes to Government Policy Referral to Third Parties No Problems Found	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Duration:	15 months												
Source of idea for study:	Internal												
Outcome (tick relevant columns):													
Reason for study (what were the problems)?	<p>The Autorité opened on its own initiative an extensive market study into the workings of domestic inter-regional coach transportation services, in view of the small share of passenger transport in France, despite its many advantages and the excellent condition of the road network.</p> <p>In its opinion, it found that the sector was subject to exceedingly restrictive regulations, which hindered the development of market operators and prevented them from meeting an existing demand.</p> <p>The main constraint was that domestic interregional services could only be provided if ancillary to a regular international service. (so-called "cabotage"). Operators were also subject to a lengthy and relatively opaque authorisation process. Finally, a competition issue was identified in that access to coach stations was uneasy and subject to rules that were uneven and lacked in transparency. The Autorité issued a three-fold series of recommendations:</p> <ul style="list-style-type: none"> - easing up the conditions to access the market and lifting the unduly burdensome "cabotage" requirement; - securing fair, non-discriminatory and transparent conditions of access to coach stations; - setting up an independent, multi-modal regulator to implement this new regulatory framework in an objective manner. <p>Policymakers followed in full the Autorité's proposals in a 2015 statute law that immediately brought about tangible results –within one month of the new law coming into effect, twice as many passengers travelled on a coach than over the whole preceding year.</p>												
Link to report:	<p>Press release in English http://www.autoritedelaconcurrence.fr/user/standard.php?id_rub=592&id_article=2687</p> <p>Full opinion in French http://www.autoritedelaconcurrence.fr/pdf/avis/14a05.pdf</p>												

Information Store

Sector:	Pharmaceuticals											
Market:	Distribution of medicinal products for human use in private practices.	Range of Possible Outcomes										
End Date:	December 2013	Competition Enforcement Consumer Enforcement Consumer Education Business Education Voluntary Business Compliance Voluntary Business Action Recommendations to Government for Changes in the Law Recommendations to Government to Change Market Structure Recommendations for Changes to Government Policy Referral to Third Parties No Problems Found										
Duration:	11 months		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Source of idea for study:	Internal		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Outcome (tick relevant columns):			<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Reason for study (what were the problems)?	<p>The survey underlined that competition linked to the launch of generic products leads to cost savings for the State health insurance fund which, in a difficult budgetary context, releases resources to fund the most innovative medicinal products at a fair value.</p> <p>In this context, while pharmaceutical companies may legitimately defend their intellectual property rights, they must refrain from abusing this right if it leads to preventing generic entry. The Autorité thus suggests guidelines to be followed by pharmaceutical companies – notably regarding the risks of denigration practices against generics.</p> <p>The Autorité also supports the strengthening of the intermediaries, through the controlled growth of parallel imports and the clearing of the regulatory hurdles affecting wholesale distributors and purchasing groups networks.</p> <p>Finally, in view of the relatively low level of intensity of competition between pharmacists, the report suggests to allow the selling of non-prescription medicines and certain other products (e.g. pregnancy tests and contact lens solutions) in para-pharmacies (shops selling only over-the-counter drugs and personal hygiene products) or supermarkets.</p>											
Link to report:	<p>Press release in English: http://www.autoritedelaconcurrence.fr/user/standard.php?id_rub=483&id_article=2366</p> <p>Full opinion in French: http://www.autoritedelaconcurrence.fr/pdf/avis/13a24.pdf</p>											

Information Store

Sector:	E-Commerce	Range of Possible Outcomes										
Market:	Electrical domestic appliances, cosmetic and personal care products, and luxury perfume and beauty products – online sales											
End Date:	September 2012	Competition Enforcement	Consumer Enforcement	Consumer Education	Business Education	Voluntary Business Compliance	Voluntary Business Action	Recommendations to Government for Changes in the Law	Recommendations to Government to Change Market Structure	Recommendations for Changes to Government Policy	Referral to Third Parties	No Problems Found
Duration:	14 months											
Source of idea for study:	Internal											
Outcome (tick relevant columns):		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Reason for study (what were the problems)?	<p>The aim of the survey was to examine the competitive operation of e-commerce, in view of the very rapid growth of the sector (+ 88% of total online spending on goods and services between 2008 and 2011 in France).</p> <p>The Autorité decided to focus on three sectors: electrical domestic appliances (TVs, sound systems, washing machines, computers, cameras, etc.), cosmetic and body care products, and luxury perfume and beauty products.</p> <p>The survey showed that online prices were substantially lower than those in retail outlets for domestic appliances and cosmetic and personal care products, a downward price trend compounded by the emergence of new players: price comparison websites, marketplaces and "pure players".</p> <p>The Autorité found that manufacturers were increasingly imposing a range of conditions on online retailers wishing to join their selective distribution networks, and also that operators with a strong online presence may be offered less attractive terms of purchase than those offered to the traditional retail brands. Therefore the Authority issued a reminder of the principles of competition law applicable to e-commerce:</p> <ul style="list-style-type: none"> - terms and conditions imposed by manufacturers when their products are sold online must not unjustifiably curb the development of e-commerce; - manufacturers are free to impose different commercial terms and conditions (including prices) on online and off-line retailers insofar as it is objectively justified and does not restrict competition in the market concerned. <p>The Autorité indicated that it would closely monitor the e-commerce sector to ensure that the need for specific distribution methods for certain types of product would not stifle the opportunities for competition created by the Internet.</p>											
Link to report:	<p>Press release in English http://www.autoritedelaconurrence.fr/user/standard.php?id_rub=418&id_article=1969</p> <p>Full opinion in French: http://www.autoritedelaconurrence.fr/pdf/avis/12a20.pdf</p>											

Information Store

Sector:	Car Retailing and Repairs											
Market:	Competition in the vehicle repair and maintenance sector and the spare parts manufacturing and distribution sector	Range of Possible Outcomes										
End Date:	October 2012	Competition Enforcement	Consumer Enforcement	Consumer Education	Business Education	Voluntary Business Compliance	Voluntary Business Action	Recommendations to Government for Changes in the Law	Recommendations to Government to Change Market Structure	Recommendations for Changes to Government Policy	Referral to Third Parties	No Problems Found
Duration:	14 months											
Source of idea for study:	Internal											
Outcome (tick relevant columns):												
Reason for study (what were the problems)?	<p>The prices for maintenance and repair services as well as spare parts have increased in France well above both the inflation rate and the levels observed elsewhere in Europe.</p> <p>The Autorité identified regulatory or behavioural factors that may limit the intensity of competition in the automotive after-sales sector:</p> <ul style="list-style-type: none"> -the protection provided by French IP law on so-called “visible” car spare parts, -the scarcity of spare parts for newer models within the independent distribution network, -the lack of access for independent repairers to the full range of technical information made available to authorized repairers, -the fact that some manufacturers’ warranty terms discourage consumers from turning to an independent repairer during the warranty period, -the use throughout the sector of recommended retail prices and its impact on the intensity of competition between manufacturers’ and independent channels. <p>Among other recommendations, the survey suggested the law be amended by introducing a "repair clause" which would remove the IP protection in respect of “visible” spare parts destined for repairs. In order to take into account the current economic difficulties faced by the car industry, this legal restriction would be removed gradually and in a controlled manner per family of spare parts.</p>											
Link to report:	<p>Press release in English: http://www.autoritedelaconurrence.fr/user/standard.php?id_rub=418&id_article=1985</p> <p>Full opinion in English http://www.autoritedelaconurrence.fr/doc/12a21_EN.pdf</p>											

Information Store

Sector:	Other	Range of Possible Outcomes										
Market:	Online betting and gambling											
End Date:	January 2011	Competition Enforcement	Consumer Enforcement	Consumer Education	Business Education	Voluntary Business Compliance	Voluntary Business Action	Recommendations to Government for Changes in the Law	Recommendations to Government to Change Market Structure	Recommendations for Changes to Government Policy	Referral to Third Parties	No Problems Found
Duration:	5 months											
Source of idea for study:	Ex officio initiative and response to a request by the European Gaming and Betting Association (industry organisation).											
Outcome (tick relevant columns):												
Reason for study (what were the problems)?	<p>The Autorité found it necessary to analyse the competition issues in the sector in the wake of the 2010 law opening online gambling to competition. While it enabled new entrants to get into the market, it left untouched exclusive and special rights attributed to the incumbent State operators <i>Française des jeux</i> for lotteries and sports and <i>PMU</i> for horserace when bets are placed at brick and mortar outlets.</p> <p>In its opinion, the Autorité advocated for an <i>ex ante</i> regulation of the price paid by operators to be granted a right to organize betting on sport events, to ensure transparency and avoid any discrimination between operators.</p> <p>Alternative operators also complained about the conditions imposed by <i>PMU</i> to allow access to horse racing data that are necessary to organise betting. The Autorité recommended that existing legal provisions be reinforced by policymakers to guarantee transparent and non-discriminatory access to said data.</p> <p>In addition, the Autorité pointed out the risk of cross subsidies by incumbent operators between their activities still under a legal monopoly (brick-and-mortar betting shops) and those now open to competition (online betting), and to the risk that these operators unduly rely on their brand recognition in one segment of the market to enhance their competitiveness in the other. It therefore recommended that the operators concerned implement a legal and functional separation between these different.</p>											
Link to report:	<p>Press release in English : http://www.autoritedelaconcurrence.fr/user/standard.php?id_rub=389&id_article=1540</p> <p>Full opinion in French: http://www.autoritedelaconcurrence.fr/pdf/avis/11a02.pdf</p>											

Information Store

Sector:	Groceries (food and drink)												
Market:	Retail in the food sector	Range of Possible Outcomes											
End Date:	December 2010	Competition Enforcement Consumer Enforcement Consumer Education Business Education Voluntary Business Compliance Voluntary Business Action Recommendations to Government for Changes in the Law Recommendations to Government to Change Market Structure Recommendations for Changes to Government Policy Referral to Third Parties No Problems Found	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Duration:	11 months												
Source of idea for study:	Internal												
Outcome (tick relevant columns):													
Reason for study (what were the problems)?	<p>The aim of this market study was to assess the behavior of major retailers regarding commercial estate management and affiliation contracts between independent stores and retail groups.</p> <p>The survey revealed that new entrants faced many difficulties when trying to open a new store. This is due not only to tight regulation and the scarcity of appropriate estate but also to behavioural barriers to entry on the part of incumbent retailers, such as non-compete clauses and priority rights.</p> <p>Furthermore, the Autorité found that the concentration level in many catchment areas was a matter of concern, with competition limited in these areas to 3 or 4 major retailer groups, if not less.</p> <p>The Authority issued recommendations to support the removal of obstacles to the mobility of independent stores across retail groups, often held captive to the retail group they are affiliated by virtue of restrictive contractual terms and/or excessively long durations.</p>												
Link to report:	<p>Press release in English http://www.autoritedelaconurrence.fr/user/standard.php?id_rub=368&id_article=1512</p> <p>Full opinion in English http://www.autoritedelaconurrence.fr/doc/10a26_en.pdf</p>												

Information Store

Sector:	Advertising and Marketing											
Market:	Online Advertising	Range of Possible Outcomes										
End Date:	December 2010	Competition Enforcement	Consumer Enforcement	Consumer Education	Business Education	Voluntary Business Compliance	Voluntary Business Action	Recommendations to Government for Changes in the Law	Recommendations to Government to Change Market Structure	Recommendations for Changes to Government Policy	Referral to Third Parties	No Problems Found
Duration:	11 months											
Source of idea for study:	Referral was made to the Autorité de la concurrence by the Minister for the Economy, Finance and Employment											
Outcome (tick relevant columns):												
Reason for study (what were the problems)?	<p>Concerns were expressed by several stakeholders regarding the central position held by Google in the online advertising sector:</p> <ul style="list-style-type: none"> - competing search engines view that the hegemony of Google results from its efforts to close off markets and other online market players fear that the conditions under which Google is diversifying into other markets do not fall within the framework of merit-based competition; - customers, i.e. advertisers or Internet website editors that are members of the Google advertising syndication network complained of arbitrary and opaque practices by Google, in view of their low negotiating power; - the press felt it was subjected to free riding and predatory pricing likely to worsen their already difficult situation. <p>The findings of the survey confirmed that Google held a dominant position on the advertising market linked to search engine. The Autorité found that search-related advertising is a specific market, not substitutable with other means of advertising. While this dominance is not in itself reprehensible, the Autorité identified what could constitute an abusive exercise of such market power and could be the object of further antitrust investigation.</p> <p>It also advocated revisiting legal obligations weighing on the sale and purchase of advertising space to ensure users of Google's AdSense service benefit from adequate and transparent revenue reporting.</p> <p>Lastly, the Autorité also looked thoroughly into the special situation of the press. It recommended that press publishers be enabled to obtain exclusion from the Google News aggregator, without being delisted by the Google search engine.</p>											
Link to report:	<p>Press release in English http://www.autoritedelaconcurrence.fr/user/standard.php?id_rub=368&id_article=1514 Full opinion in English http://www.autoritedelaconcurrence.fr/doc/10a29_en.pdf</p>											