



France ❖

France is located in Western Europe bordering the Bay of Biscay and the English Channel, between Belgium and Spain, South-east of UK; bordering the Mediterranean Sea, between Italy and Spain.

Despite the fact that France emerged as a victor in World War I and II, it underwent widespread losses in term of its wealth, manpower and empire. Since 1958 France has built a presidential democracy, which was more resistant of instabilities experienced during parliamentary democracy.

From the 1990s to the 2000s, France has been at the forefront of efforts to develop economic integration in the European Union (EU) in several industrial sectors, such as aircraft manufacturing and other high tech goods, some of which are said to have contributed to develop military capabilities to supplement progress toward a common EU foreign policy.

Economy

The French economy is diversified across all sectors. The government has partially or fully privatised many large companies, including Air France, France Telecom, Renault, and Thales. However, the government maintains a strong presence in some sectors, particularly power, public transport, and defense industries. With at least 79mn foreign tourists per year, France is the most visited country in the world and maintains the third largest income in the world from tourism.

France's leaders remain committed to a capitalism in which they maintain social equity by means of laws, tax policies, and social spending that reduce income disparity and the impact of free markets on public health and welfare. France's real Gross Domestic Product (GDP) contracted 2.6 percent in 2009, but recovered somewhat in 2010 and 2011, before stagnating in 2012. The unemployment rate increased from 7.4 in 2008 to 10.3 percent in 2012. Youth unemployment shot up to 24.2 percent during the third quarter of 2012 in metropolitan France.

PROFILE	
Population:	65.70 million***
GDP (Current US\$):	2.613 trillion***
Per Capita Income: (Current US\$)	41,750 (Atlas method)*** 36,720 (at PPP)**
Surface Area:	551.5 thousand sq km**
Life Expectancy:	81.7 years**
Literacy (%):	99 (of ages 15 and above)**
HDI Rank:	20***
Sources: - World Development Indicators Database, World Bank, 2012 - Human Development Report Statistics, UNDP, 2011 (**) For the year 2011 (***) For the year 2012	

Lower-than-expected growth and high unemployment costs have strained France's public finances. The budget deficit rose sharply from 3.4 percent of GDP in 2008 to 7.5 percent of GDP in 2009 before improving to 4.8 percent of GDP in 2012, while France's public debt rose from 68 percent of GDP to 90 percent over the same period.

Under President Sarkozy, Paris implemented some austerity measures to bring the budget deficit under the 3 percent euro-zone ceiling by 2013 and to highlight France's commitment to fiscal discipline at a time of intense financial market scrutiny of euro-zone debt. Socialist Party candidate Francois Hollande won the May 2012 presidential election, after advocating pro-growth economic policies, the separation of banks' traditional deposit taking and lending activities from more speculative businesses, increasing the top corporate and personal tax rates, and hiring an additional 60,000 teachers during his five-year term.

The government's attempt to introduce a 75 percent wealth tax on income over one million euros for two years was

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struck down by the French Constitutional Council in December 2012 because it applied to individuals rather than households. France ratified the EU fiscal stability treaty in October 2012 and Hollande's government has maintained France's commitment to meeting the budget deficit target of 3 percent of GDP during 2013 even amid signs that economic growth will be lower than the government's forecast of 0.8 percent. Despite stagnant growth and fiscal challenges, France's borrowing costs declined during the second half of 2012 to euro-era lows.

Competition Evolution and Environment

The initial Competition Law foundation was laid down during Revolution to control cartels. The *Le Chapelier Law* of 1791 contained a provision that barred members from the same trade community to assemble for the purpose of promoting their 'common interest'.

In 1810, the Penal Code prohibited any concerted act to manipulate prices that could distort free competition. This prohibition, under Article 419, remained in force until the first half of the 19th century after which courts in France, like those elsewhere in Europe, distinguished between good and bad cartels and found few of the latter that deserved sanctions.

The law was amended in 1926 to incorporate the provision to weaken Article 419 prohibition. At the World Economic Conference in 1927, the French delegation presented a cartel control plan. However, France did not adopt competition legislation at that time.

Amendments to price control laws and the Napoleonic penal code were made in the post-war period. A 1945 Ordinance made refusal to deal, price discrimination, and some other practices unlawful. The Parliament tried to pass a general Competition Law in 1953, but failed to agree on a text. Instead, the Government issued a decree, implementing the 1945 Ordinance. This decree applied only to joint action, not to a single-firm conduct, and it was still tied to effects on price.

In the wake of the adoption of Treaty of Rome, which created a competition law and policy for the European Economic Community, further additions to the decree were made in 1963 to cover abuse of dominance. However, that power was not used until the late 1970s. The link to effects on prices was removed in 1967.

The ultimate decision-making authority rested with the Minister of Economic Affairs and Finance. An expert body '*Commission technique des ententes*' was formed under 1953 decree. This body was responsible for investigating alleged violations and advising the ministry about what ought to be done. This body had no power of judicial enforcement.

Major changes to strengthen the competition law framework began in the late 1970s. Price controls were cut back and changes were made to provide for fines and injunctions and most importantly, providing for merger control. Role and powers of the 'technical' Commission were expanded and it was renamed as *Commission de la concurrence* in 1977.

With an acceleration of market integration in EU in the mid-1980s, the Government changed its policies towards promotion of competition by curtailing controls. The Minister of Finance and Economy appointed a committee of experts to study and work out options to build a stronger Competition Law framework. The resulting legislation, the 1986 'ordinance' on competition and freedom of prices, abandoned administered pricing, marking a fundamental change.

The "ordinance" tried to make competition law enforcement independent, by upgrading the *Commission de la concurrence* to the *Conseil de la concurrence*, a quasi-judicial independent body, with powers to initiate proceedings, issue orders, and impose fines on its own. France's commitment to competition policy was mainly revealed through the 1986 legislation.¹ At the same time, an effective merger control regime was created but the powers still remained with the Minister of Finance and Economy.

On May 15, 2001, the French Parliament adopted the New Economic Regulations Law, which was designed to modernise French business law in several areas, including competition law. This reform strengthened the efficiency of French antitrust rules by introducing substantial amendments to the ordinance of December 01, 1986. It introduced the given measures:

- Heavier sanctions for cartels and abuses of dominance, combined with a leniency programme; and
- French merger control procedure was harmonised with the EU regime.

Competition Law

The Law on the Modernisation of the Economy of August 04, 2008 introduced significant changes to competition regulation by bringing the merger review powers hitherto held by the Minister of the Economy and the antitrust enforcement powers together within one single entity, the *Autorité de la concurrence*, which succeeds the *Conseil de la concurrence* as the independent administrative authority in charge of competition law. The Law also gave the *Autorité* the lead role in the investigation, shifting powers and resources, which were held until then by the Directorate-General of Competition, Consumption and the Repression of Frauds (DGCCRF), within the Ministry of the Economy. Finally, the Law allows the *Autorité de la concurrence* to issue, on its own initiative, opinions on any area or sector pertaining to competition.

The “Ordinance” of November 13, 2008 implements some of the changes foreseen in the Law of August 04, 2008 and reinforces the functional separation within the administrative authority between its investigative and decision-making roles, thereby ensuring an independent and impartial adjudication on the facts of the case by a Board which is separate from the investigative services.

France’s Competition Law more or less follows the EU model and principles about restrictive agreements, dominant firms, and mergers. On May 01, 2004, EU Regulation No: 1/2003 entered into force with two main changes: firstly, when there is an appreciable effect on trade between EU Member States, the *Autorité de la concurrence* must apply EU Law together with national law, subject to a principle of convergence between the two sets of rules to avoid conflicting solutions; secondly, the *Autorité* is a member of the ‘European Competition Network’ or ECN, which provides for enhanced possibilities for cooperation amongst members of the network as well as notifications and exchanges on case openings and closures, when the application of EU Law is contemplated.

The new system, *inter alia*, allows the EC to preempt or “call a case” being dealt with by one or several national competition authorities (such as the *Autorité*) because the EC is better placed in light of the multijurisdictional effects of the concerned practice or, alternately, to set a precedent on new competition issues. This power has been used only once to date. The entry into force of the EU Regulation No. 1/2003 thus modified the French system towards a strengthened integration in the EU system. In 2005, it can be said that French Competition Law is completely harmonised with EU law on substance, although it still differs on some technical, institutional, procedural and sentencing issues.

Leniency is an example of a procedural instrument *vis-à-vis* which national systems are not legally required to evolve towards harmonisation with EU Law but where convergence has none the less been achieved in order to increase the effectiveness of competition enforcement throughout the ECN. Thus, while the relevant law and implementation decree do not provide for a detailed framework, the French system currently operates under the *Autorité*’s guidelines of March 2009 which are broadly in line with the EC’s own guidelines as well as the Model Leniency Programme drawn up within the ECN and the principles of which ECN members have committed to reflect in their own national leniency programmes.

Institutions and its Competencies

Pursuant to the institutional reform of 2008, the task of applying competition law is now devolved primarily to a single authority, the *Autorité de la concurrence*., subject ultimately to the civil law jurisdiction at the *Cour de cassation* (Civil Supreme Court) for antitrust matters and the administrative law jurisdiction of the *Conseil d’Etat*

(Administrative Supreme Court) for merger control matters. The DGCCRF retains a residual role at a preliminary stage with the power to submit proposals for investigation to the *Autorité*, which are then either accepted and conducted directly by the *Autorité*, or continued and submitted to the *Autorité* after further completion of the investigation. The *Autorité* decides to take the case in function of diverse criteria (impact of the alleged practice, size of companies, significance of the case for competition policy, existing case portfolio, convincing nature of the leads). If the *Autorité* does not take the case, the DGCCRF may settle with the companies if the turnover of the undertaking is below 50mn euros or the cumulated turnover of the companies is below 100 million euros. In the merger control field, the Minister of the Economy also retains a residual and discretionary competence to call a merger case in light of public interest considerations other than competition after the *Autorité* has adopted a phase II (in-depth investigation) decision. This power has never been used to date.

Anticompetitive Practices

Horizontal Agreements: Agreements that have the purpose or the possible effect of preventing, restricting, or distorting competition are prohibited. The general prohibition does not distinguish between horizontal and vertical agreements, nor does it prescribe in its own terms any rules of *per se*

Box 1: *Autorité* fines Cartel of World four major Detergent Manufacturers

On December 08, 2011, the *Autorité de la concurrence* established the existence of a cartel between the four laundry detergent manufacturers active in France – Unilever, Procter & Gamble, Henkel and Colgate Palmolive – and fined the last three participants for a total amount of €367 900 000. The companies were found to have coordinated their commercial strategies through a common determination of sale prices and rebates directed at the French retail grocery sector (supermarkets and hypermarkets).. Coordination had occurred between September 1997 and August 2004, with the four manufacturers holding secret talks on a regular basis and agreeing on the price differentials between their brands, the level of rebates. The cartel was supported price reporting and monitoring in supermarkets and further facilitated by certain loopholes in the regulation prohibiting sales below costs, which enabled the setting, by the manufacturers, of a floor price.

To date, this is the most important leniency case investigated by the *Autorité* and it involved the cooperation of all the participants under the French leniency programme. Moreover, it is the first time in France that a leniency case concerns a mass-market product.

illegality. The Law sets out four characteristics of the prohibited tendencies: limiting access to a market or free competition by others; creating obstacles to setting prices by market forces (making them higher or lower), limiting or controlling output, outlets, investment, or technical progress; and dividing markets or suppliers.

The law does not prohibit an agreement (or other conduct) that has the effect of ensuring ‘economic progress’, provided that a fair share of benefits must go to customers

Box 2: Ban on online sales in selective distribution networks

The *Conseil* and subsequently the *Autorité* have issued a number of decisions between 2006 and 2012 regarding either absolute bans or undue restrictions hindering *de facto* the development of online sales. These cases covered a wide variety of sectors, from the distribution of watches, hi-fi and home cinema equipment to personal care and cosmetics products. The position of the *Autorité* whereby a supplier could not impose an absolute ban on Internet sales by distributors already operating from a physical outlet was confirmed by the European Court of Justice in 2011 in its *Pierre Fabre* judgment.

and competition must not be eliminated for a substantial part of the market.

Vertical Agreements: The same statutory language applies to vertical agreements. The intent and effect of agreements among parties at different stages of the distribution system is often to support competition rather than hinder it. Overall, the *Autorité* has been taking a more effects-based approach to vertical restraints such as selective or exclusive distribution or franchising, in keeping also with the blanket exemptions set out in principle for vertical agreements under the so-called EC Block Exemption Regulation (recently revised: see Regulation No 330/2010), and is concerned principally about the extent of market foreclosure and cumulative effects. The *Autorité* has also monitored closely the growing importance of the online distribution channel and suppliers’ strategies to ban the development of online sales.

Abuse of Dominance: In addition to the general rule against abuse of dominance, abuses related to price are also treated separately. Abusive exploitation of a dominant position, in the French market or a substantial part of it, is prohibited. The statute provides a non-exhaustive list of particular examples of abuse: refusal to deal, tied sales, discrimination, and imposition of unreasonable commercial conditions. Another part of the competition law reserves

Box 3: Canal plus/TPS Merger

Subsequent to the withdrawal, in September 2011 of 2006 ministerial merger clearance decision because the parties failed to comply with the commitments, the *Autorité*, which acquired jurisdiction in merger control in 2009, received a new notification of the merger. The *Autorité* re-examined the merger-to-monopoly of the two main pay TV operators – Canal Plus and TPS – under the new market conditions. On July 23, 2012, the *Autorité* cleared the merger subject to compliance with injunctions, making use of this power for the first time.

In the years following the 2006 acquisition, Groupe Canal Plus (“GCP”) breached commitments which had conditioned the merger’s clearance, particularly by lessening the quality of unbundled channels and failing to implement commitments aimed at improving distribution conditions for independent channels. The *Autorité* found that, as a result, competition was significantly weakened in several pay TV markets.

The merger led to the creation of an enduring monopoly to the benefit of GCP, which still accounts for almost all the downstream pay-TV market’s turnover. GCP offered insufficient commitments in the context of the renewed merger review, leading the *Autorité* to order injunctions, with the aim to:

- 1 encourage diversity in pay TV providers and the development of less expensive pay TV offers, that are more accessible for consumers;
- 2 preserve the competitive potential of new markets (in particular VOD);
- 3 preserve the financing system of the French movie industry.

The *Autorité* ordered innovative injunctions, among which key ones are:

- a) Movie rights
 - limiting the duration and the structure of output deals with right owners;
 - requiring the independent representation of GCP’s stake in its main competitors’ board;
- b) Distribution of pay TV channels
 - establishing clear rules for the distribution of independent channels by GCP;
 - requiring GCP to bid for exclusive distribution rights on a platform-by-platform basis in order to allow alternative distributors, particularly the ISPs, to compete effectively in the bidding process;
 - unbundling all of GCP’s own movie channels.

The decision was recently upheld in December 2012 by a landmark decision by the *Conseil d’Etat* (French Administrative Supreme Court).

the power to control monopoly prices by decree, after consulting the *Conseil* but without the need to go through the enforcement process.

A separate article prohibits predatory pricing *per se* through prohibition of prices that are excessively low with respect to costs of production, processing and marketing and that have the purpose of eliminating a firm or product from the market or of preventing entry.

Mergers: The substantive criterion for controlling mergers is eclectic and thus practical. The statute mentions several possible grounds for concern: substantial lessening of competition, creation or strengthening of a dominant position, or creation or strengthening of buying power that puts suppliers in a position of economic dependence. In practice, the test applied the *Autorité* is akin to the EU Merger Regulation's test of substantial lessening of competition, allowing it to cover both cases of creation/reinforcement of a dominant position and so-called "gap cases" where, absent the creation of a dominant position, there are nonetheless unilateral effects stemming from the merger which may lead to increase in prices or reduction in output, by the parties to the concentration and possibly, as a ripple effect, by competitors.

Advocacy

The *Autorité* can issue recommendations and establish a diagnosis of the competitive state of play in a given sector, both following a referral by an interested party (e.g., State and local governments, Parliament, consumer and trade associations, trade unions) or *ex officio*. This advocacy tool allows the *Autorité* to draw public attention on market deficiencies, which are to the consumers' detriment and encourage or preserve rent-seeking behavior from firms. Recommendations are addressed more specifically to the

Box 4: Inquiry into Car After-Sales Markets

The *Autorité* published its findings on the car repair and maintenance services in October 2012, a sector in which prices had increased in real terms by *circa* 30 percent between 2000 and 2010 together with a 13 per cent increase in real terms of prices for spare parts, a unique evolution in Europe where prices tend to decline. The *Autorité* identified several avenues to foster competition and bring prices down, including the progressive lifting of the IP protection benefitting so-called visible spare parts – as was done already in 12 EU countries – which give car manufacturers, together with their OE manufacturers, a monopoly on such key car parts as bumpers, mirrors or fenders. The *Autorité* also put forward a recommendation to lift hurdles on access to relevant and comprehensive technical information, which impact in particular independent multi-brand repairers in their competition with authorised repairers.

public authorities when legislative or regulatory reform is needed to address the highlighted concerns. 28 opinions were issued in 2012, of which 2 related to the *Autorité's* findings in its *ex officio* inquiries on car after-sales and e-commerce sectors. Two new sector inquiries were launched in 2013, relating to the distribution of medicinal products, on the one hand, and interregional coach transport, on the other.

Sectoral Regulation

In France, 'regulatory reform' is often identified with bringing competition to the utility and other public service sectors. This does not involve undoing explicit exemptions from the competition law, so much as making in-depth changes to a governance system that was previously attuned to the pre-eminent role played by the state. In adapting to the new policy environment and partial privatisation efforts, France has supported the efforts of its historic monopolies to reinvent themselves in increasingly competitive markets, while trying to preserve their special role in providing public services. Thus it sees the challenge as creating opportunities for competitive entry while not undermining the profitability that the incumbent needs, to fulfil its public service undertaking. To that end, sectoral regulators are to set the necessary equilibrium, a 'corridor of viability', concerning the prices and terms.

Box 5: The *Autorité de la Concurrence* fines National Incumbent Railway Operator SNCF for Unilateral Practices and imposes Injunction

In December 2012 the *Autorité* imposed on SNCF, the national incumbent railway operator, a fine of €60 900 000 as well as an injunction for having implemented several practices that have hindered or delayed the entrance of new operators in the railway freight sector in France.

The *Autorité* found that SNCF being entrusted, *via* a specific branch, of the traffic management and the technical and safety maintenance of the network infrastructure, had gathered sensitive and confidential information on the strategy and business behaviour of its competitors and used it in its own commercial interest.

The *Autorité* also found that SNCF had been preventing its competitors from accessing rail capacities that were essential to their business by hindering access to freight yards (managed by SNCF), specific large tonnage wagons (SNCF being the sole lessor of such equipment) and train path reservations (by overbooking them).

Finally, the *Autorité* issued an injunction aimed at addressing SNCF's below cost pricing, by requiring that SNCF set up an analytical accounting system which shall enable a precise identification of the costs incurred by its full-train-load freight business.

Telecommunications Sector

Creation of an independent administrative authority to regulate entry and competition in the telecommunications sector was the consequence of opening up to competition a sector that was previously a legal monopoly. Opening up this market with its very high entry barriers required specific regulation to supplement common competition law, in order to encourage the entry of new players and further competition. In addition, the technological factors and cost structures that led naturally to a monopoly situation did not disappear with the opening of the market.

Box 6: The *Autorité* fines France Telecom and SFR in the mobile telephony sector

The *Autorité* fined in December 2012 the two leading operators, a total of €183 100 000 for applying unjustified rate differentiation practices between ‘on net’ calls (made within their own network) and ‘off net’ calls (to a rival network) thereby abusing the dominant position they held in their respective call termination markets (i.e. in the interconnection service they offered other operators by ‘terminating’ calls on their networks). The effects of the practices were to lock subscribers in a network by significantly raising their exit costs. The *Autorité* has previously assessed such rate differentiation practices in the overseas territories of Guadeloupe, Martinique and Guyana, leading to the adoption of an interim injunction against SFR in 2009.

Hence, the Telecommunications Act dated July 26, 1996 created the Telecommunication Regulatory Authority (ART) with an independent five-member Executive Board, whose tasks were extended to the postal sector in 2005 and its name changed consequently to Electronic Communications and Postal Services Authority (ARCEP). Moreover, the telecommunications framework further evolved in 2004 following the adoption of the 2002 European telecoms package, which seeks to increase competition and facilitate EU wide market integration. The ARCEP’s main tasks are the following:

- foster competitive entry of new operators for the benefit of users;
- monitor the provision and financing of universal service in the framework of a public telecommunications service;
- monitor development of employment, innovation and competitiveness in the telecommunications sector; and
- take into account the interests of regions and users in terms of access to service and equipment.

Consultation between ARCEP and the *Autorité* about competition issues and cases is mandatory in both the telecom and the competition laws. There is no formal protocol or agreement between ARCEP and the *Autorité* about allocating jurisdiction, because the telecom law envisions a clear distinction between their powers. Some types of industry disputes might be taken to either body

for decision. In principle, access and structural matters are handled by ARCEP and behavioural aspects fall within the *Autorité*’s sphere.

The more specific tasks entrusted to ARCEP include the management of radio frequencies or the assignment of numbering resources. ARCEP also conducts market analyses in order to assess whether an operator enjoys significant market power and decide consequently whether specific “asymmetric” obligations (e.g., accounting separation, publication of a reference offer, price controls) must be imposed on it to ensure effective competition. ARCEP must consult the *Autorité* prior to issuing its market analysis decision.

Electricity Sector

Electric power in France was until recently an integrated, state-owned monopoly. The opening of the monopoly of electricity in France results from the application of the law of February 10, 2000 relating to the modernisation and the development of the public utility of electricity. It was modified by the law of January 3, 2003 relating to the markets of gas and electricity and the public utility of energy. Finally, the law of December 7, 2010 has introduced certain amendments aimed at stimulating competition for the production and distribution of electricity, including the provision at wholesale level of electricity from EDF’s nuclear plants to competitors on the downstream market at a regulated price (so-called sharing of the “nuclear rent”) and the progressive alignment of “regulated tariffs” on the actual costs incurred by the operators plus a reasonable margin in order to address the risk of eviction of alternative operators.

Box 7: The Conseil obtains Commitments from National Incumbent, EDF, on Wholesale Offer to allow Alternative Operators to Effectively Compete

In December 2005, Direct Energie, an alternative operator, signed a five year electricity supply contract with EDF with price conditions such that the company was unable to market viable commercial products to small professionals at levels competitive with the incumbent’s price range, a so-called “margin squeeze”.

After ordering interim measures in June 2007 to remedy provisionally the competition concern, the Conseil accepted in December 2007 commitments submitted by EDF to significantly improve conditions for the wholesale supply of electricity to alternative operators. The contemplated contract duration (maximum of 15 years) was deemed to guarantee alternative operators long-term foresight regarding the conditions of their supply in base-load electricity. Moreover, the award of such volumes of electricity through a bidding process ensured that they would be purchased at their true market value.

Despite the changes in the last few years, though, France has not moved nearly as far as others in Europe, either in law or in fact, towards open, competitive electric power markets. Even if the market is now completely open to competition since July 1, 2007, 80 percent of industrial clients and 90 percent of private clients use the ex-monopoly, EDF, for the provision of electricity. Despite the non-competitive market structure, though, power prices in France have not been unusually high, nor low, compared with other European countries, and the estimated network charges appeared to be about average.

The regulatory authority, the *Commission de Regulation de l'energie* (CRE) is an independent administrative body, governed by the laws of February 10, 2000 and January 03, 2003. It is the regulatory body for opening up the gas and electricity markets to competition. It is responsible for ensuring non-discriminatory, transparent third-party access to the transmission system.

CRE powers are exercised in conjunction with the *Autorité*. If CRE encounters conduct that amounts to abuse of dominance or a restrictive agreement, it is to transmit that to the *Autorité*, because CRE is not competent to decide such behavioural matters itself. Conversely, the *Autorité* is to refer disputes concerning access or structure in the energy sectors that do not amount to competition law violations to CRE.

Banking and other Financial Services

The banking sector is not exempted from competition law. Consultation between the *Autorité* and the competent sector regulator for banking, financial and insurance matters, ACP, is compulsory: ACP thus provides an opinion on the statement of objections issued by the *Autorité* in antitrust cases related to the activities falling under its supervision.

Consumer Protection

The Directorate-General of Competition, the Consumption and the Repression of Frauds

The Directorate-General of Competition, the Consumption and the Repression of Frauds (DGCCRF) exerts, within the Ministry for the Economy, of Finances and Industry, an essential mission of regulation with regard to the whole of the economic spectrum: companies, consumers and local councils. DGCCRF has a number of direct consumer protection functions, covering fraud, deception, distance sales, door-to-door sales, pricing and discounts.

The safety of the consumers is one of the constant concerns of the authorities and an essential mission of the DGCCRF, which often acts in this field in partnership with other service and organisations of the State. The creation of specialised agencies, such as the French Agency of Medical Safety of Food (AFSSA) and the French Agency of Medical

Box 8: the Autorité adopts Three Decisions on Interbank Fees charged for payment services	
<p>The <i>Autorité</i> obtained, through three successive decisions adopted between 2010 and 2012, the reduction or suppression of certain multilateral interbank fees which are charged <i>per</i> transaction between banks and which weigh on the final service fee charged to the merchant or, alternately, on the person making the payment. The first decision led to the imposition of a total fine of €384.9mn on 11 banks, the suppression of a fixed fee charged for every cheque remittal and the injunction to adjust the level of two fees linked to the cancellation of wrongly cleared transactions on the basis of the most efficient bank's costs. The decision is currently undergoing appeal before the Civil Supreme Court.</p> <p>The <i>Autorité</i> accepted in its second and third decisions commitments submitted by banks and their association regarding the lowering or suppression of interbank fees associated with payment card transaction, on the one hand, and other non-cash means of payment (including direct debit), on the other.</p> <p>A distinction was drawn in the assessment of the appropriate level of fees between those which related to a service provided by one bank to another or a charge incurred by one of behalf of the other (e.g., transaction cancellation; ATM withdrawal), and fees which seek, more generally, to incentivise the usage of a particular means</p>	<p>of transaction by transferring the charge on those which are less price-sensitive (as is the case for fees charged <i>per</i> payment card transactions in order to subsidise the usage of cards by cardholder).</p> <p>While the former fees should mirror the costs incurred by the most efficient in handling the service, the latter fees require a more complex analysis which aims at ensuring that merchant exceed the transactional benefits gained by merchants by accepting payment cards rather than other means of payment.</p> <p>Overall, fees on payment card transactions fell by up to 36 percent following the commitments, whereas fees per direct debit transaction will be abolished as of September 01, 2013.</p> <p>If the <i>Autorité</i> decides not to follow the opinion of the ACP, it must explain its reasons for departing from that opinion.</p> <p>Bank mergers are now subject to the usual competition policy review (Minister of the Economy's review). Before August 2003, they were not subject to control by the Minister, but instead only to the review of the banking regulator which did not include a competition assessment.</p>

Safety of the Products of Health (AFSSAPS) makes it possible to appreciably improve the evaluation of risks.

DGCCRF has the policy of constant interaction with public through physical meetings, telephone, Internet and mails.

The *Autorité* does not have direct consumer protection functions, but there has always been a representative of a consumer organisation among its members, and cases motivated by consumer-level concerns are welcomed. Consumer groups can bring complaints to the *Autorité*. Private consumer organisations are active and well organised to participate in cases and policy-making.

Consumer Safety Commission

The CSC is an independent organisation in France. It was set up in 1983 to improve consumer safety. The 'Commission de la Sécurité des Consommateurs' captures the number of accidents and collects reports on dangerous products. Its objective is a reduction of accidents in everyday life.

Institute of Health Protection

The Institute of Health Protection was founded in July 1998 as a public institute, reporting to the Ministry of Health. It performs research and interventions in the field of epidemiology and risk evaluation. The mission of the organisation is constant surveillance of the population to safeguard its health.

Concluding Observations and Future Scenario

After the entry into force of the EC Regulation No: 1/2003 revolutionising antitrust enforcement within the EU notably by the creation of the ECN, the *Autorité de la concurrence* as well as EC will focus on the prosecution of infringements on the basis of complaints, leniency applications and *suo moto* investigations.

It is, therefore, particularly important to be increasingly aware of market dynamics and performance, sector peculiarities and obstacles to competition. The recent EC Communication: 'A pro-active competition policy for a competitive Europe' already portrays what the future may bring as regards sectoral studies, sectoral inquiries and market investigations.

Another challenge is to ensure the determined and consistent implementation of the reforms. The *Autorité de la concurrence* as well as the EC should remain vigilant to the need to constantly ensure the objectivity of their investigation process, and of the need to re-assure the outside world that they are indeed regulators of unimpeachable integrity and objectivity. Recent reforms and efforts have already borne fruit as illustrated *inter alia* by the distinctions received by the *Autorité de la concurrence* since its implementation (it was awarded in 2012 the highest distinction in the Global Competition Review's survey of the world's competition authorities: <http://www.globalcompetitionreview.com/surveys/article/31838/star-ratings>). On the whole, the French competition law system is being driven into an increased harmonisation with the EU Law, although national legal features have not yet disappeared, mainly with respect to regular institutional enforcement, procedural or sentencing matters.

Suggested Readings

1. www.internationallawoffice.com
2. OECD paper on Regulatory Reform, 2004
3. France Competition Policy Newsletter, *Number 3 – Autumn 2004*