



COMPETITION COMMITTEE

**ANNUAL REPORT ON COMPETITION POLICY DEVELOPMENTS
IN FRANCE**

2003

I. Changes or proposed changes to competition laws and policies

1. Summary of new legal provisions

1. The year 2003 saw the adoption of the bill empowering the government to simplify legislation and formalities for enterprises. With respect to competition issues, that law authorises the government to take all necessary steps, by ordinance, to "institute a fast-track procedure whereby the Competition Council will examine cases involving amounts below a determined threshold, and to raise the business turnover threshold for enterprises subject to concentration control". These two provisions were adopted in the context of an ordinance of 24 March 2004.

a) Countering anticompetitive practices, cartels and abuse of dominant position

2. To allow summary dismissal by the Competition Council of complaints concerning practices that do not appreciably restrict competition, the law of 2 July 2003 authorising the government to simplify legislation called for instituting "a fast-track procedure whereby the Competition Council will examine cases involving amounts below a determined threshold" (Article 26-10). The draft ordinance simplifying the law was adopted by the Council of Ministers on 24 March 2004, and published in the Official Gazette of 27 March.

3. Article 24 of that ordinance institutes a *de minimis* provision amount based squarely on the Community provision as reflected in the Commission's notice on anticompetitive agreements that do not appreciably restrict competition in the sense of article 81 (1) of the EC treaty. The combined market share thresholds are the same: 10% for horizontal agreements (between competitors), and 15% for vertical agreements (between noncompetitors). The "hard-core" prohibitions are the same: they relate to price-fixing clauses, sharing of markets or customers, restrictions on passive sales, restrictions on active sales for selective distributors, restrictions on cross deliveries between distributors in the same network. Nor does the *de minimis* provision apply to public procurement practices.

4. The dismissal of a case on the grounds that it does not appreciably restrict competition must be substantiated, and that substantiation must be given within six months after the case is opened. This general obligation of substantiation reflects the fact that summary dismissals can be appealed (by the plaintiff or a third party).

b) National control of concentrations

5. The ordinance of 24 March 2004 raises the individual threshold for the notification of mergers from €15 million to €50 million, representing the combined French turnover of the two enterprises concerned.

c) Public procurement

6. The public procurement code, instituted by decree of 7 March 2001 and in force since 10 September 2001, was applied throughout the year 2003. However, interministerial efforts continued during 2003, together with government procurement stakeholders, to simplify the 2001 text to make it more economical. A new code, drafting of which was completed in the summer 2003, came into effect on 10 January 2004.

2. Other relevant measures, including instructions or guidelines

7. None.

3. *Government-proposed changes to competition law or policy*

8. None

II. Enforcement of competition laws and policies

1. *Action against anticompetitive practices, including cartels and abuse of dominant position*

1.1 *Summary of the activities of the competition authorities*

1.1.1 Summary of the activities of the DGCCRF

9. The DGCCRF has the general duty to oversee the transparency and regularity of government procurement and of public service concessions, in order to ensure healthy competition in public procurement. This duty involves the prevention, detection, confirmation and prosecution of practices that, in the course of public bidding procedures, would affect competition to the detriment of the community or of competing enterprises. It also seeks to make public officials aware of competition issues, and of the consultation procedures available for drawing maximum benefit from the play of competition.

a) *Monitoring business behaviour*

10. Anticompetitive practices in the field of government procurement detected by DGCCRF officials, either through their participation on contract boards or through their examination of the contract documents that they are authorised to inspect, accounted for more than 40% of the investigations launched by the DGCCRF during 2003, and for nearly half (9 out of 19) of the ministerial referrals to the Competition Council.

11. In addition, whenever an investigation uncovers a criminal violation of Article L.420-6 of the Commercial Code, which prohibits natural persons from taking part personally and decisively in the design, organisation or execution of anticompetitive practices with intent to defraud, the case file is handed over to the State Prosecutor. Three such referrals to prosecutors were made in 2003 on the basis of Article L. 420-6.

b) *Sensitising government purchasing agents to competition issues*

12. The work of preventing anticompetitive practices includes informing purchasing agents of anticompetitive business methods and explaining their impact.

13. However, the DGCCRF also makes buyers aware of the benefit they can derive from intense competition in terms of rationalising their purchases, particularly by implementing provisions of the government procurement code properly. It is also important to advise buyers, in their own interest, of the most effective means for stimulating competition, and to warn them against indirectly limiting the number of potential bidders through inadequate publicity.

14. Government purchasing agents must also be warned that they can unwittingly encourage or facilitate collusion between bidders.

15. These efforts to promote the benefits of competition are pursued not only through the contract boards but also whenever the opportunity arises through a request for information, an information meeting, or a training session.

1.2 Court decisions

1.2.1 Summary of decisions by the Paris Court of Appeal

16. In 2000, the Paris Court of Appeal, which has appellate jurisdiction over decisions of the Competition Council, handed down 27 rulings in respect of appeals against the Council's decisions, 24 of which dealt with the substance of the case and 3 dealt with suspension of execution.

17. Some of those rulings (14 of them) confirmed the Competition Council's decisions. The Court of Appeal reversed eight decisions, four of them partially (amount of penalty). It quashed four decisions, and ordered one case to judicial mediation.

18. The main sectors concerned by these rulings were the following:

Water distribution

19. The Competition Council, which at its own initiative had decided, on 21 June 2000, to investigate competition in the drinking water and sanitation sector, found that the companies CGE (Compagnie Générale des Eaux) and SLDE (Lyonnaise des Eaux) had violated the provisions of article L. 420-2 of the Commercial Code and had abused their collective dominant position by refusing to respond to calls for tender in competition with the joint ventures they had created. The Council asked the Minister of Economy to enjoin the companies to modify all of the agreements that led them to pool their resources within the framework of the joint ventures that they created.

20. The court confirmed the judgment of the Council as to the collective nature of the dominance, as demonstrated by the creation of joint ventures with zones of influence recognised by the two parent companies, the parallel and predictable behaviour of the joint ventures towards the two companies, the homogeneous nature of the product (water) marketed by these companies, and the price-inelasticity of demand of that product.

21. The Court found that the two parent companies abstained from bidding for 83% of the 41 contracts reviewed, while their average response rate to invitations was 80% nationwide, and that this represented a deliberate anticompetitive practice and an abuse of dominant position in the sense of article L. 420-2 of the Commercial Code.

22. In the end, the court ruled that the provisions of article L. 430-9, which allow the Council to ask the Minister of Economy to impose measures on the companies, relate directly to the provisions of article L. 420-2.

23. This was the first decision in which the Competition Council applied the provisions of article L. 430-9, which allows the minister to order structural measures to remedy a situation of abuse of dominant position.

24. The companies have appealed the ruling to the Court of Cassation.

- Telecommunications

25. The telephone company Cegetel complained to the Competition Council about the practices of France Télécom with respect to *numéros d'accueil*, i.e. special call-centre or information numbers, a segment that includes toll-free numbers (*numéros verts*) and shared-cost numbers (*numéros azur*, charged at the local-call rate, and *numéros indigo*, billed at a flat nationwide rate), as violating articles L. 420-1 and L.

420-2 of the Commercial Code. Cegetel accompanied this complaint with a request for interim relief measures (*measures conservatoires*).

26. By decision number 03-MC-02 of 5 March 2003, dealing with interim relief, the Competition Council ordered France Télécom to take the following measures:

- For all previously signed “special number” contracts, France Télécom was to suspend, as of notification of the decision and until the case is definitively resolved, the clause that was inserted in articles 3.3 and 14.4.2 of those contracts (and to which the portability annexes to the interconnection agreements of France Télécom also refer) whereby the client loses the right to use the special-number trademarks of France Télécom if it cancels the contract and transfers its special number to a competing operator.
- All holders of such contracts were to be notified by mail of this suspension within two months.

27. France Télécom appealed this decision.

28. In considering the appeal, the Court of Appeal first reviewed the conditions under which interim relief can be ordered, pursuant to article L. 464-1 of the Commercial Code. It determined that such relief can be ordered in the case of a serious and immediate threat to the general economy, to the industry involved, to consumer interests, or to the complaining firm, even if there is no prior finding of obviously illicit practices as defined in articles L. 420-1 and L. 420-2 of that code. It was sufficient, said the court, that the facts be demonstrated during the substantive proceedings as being the direct and certain cause of the threat.

29. The Court of Appeal then confirmed that France Télécom had a position of dominance on the market in question, noting that, despite opening of the market to competition, France Télécom still held more than 85% of the toll-free numbers and 80% of the shared-cost numbers at the end of 2001.

30. In examining the practices in question, the Court of Appeal made the preliminary observation that protecting trademark rights, while legitimate, must be reconciled with the need to respect competition rules.

31. In this specific case, the court considered that the clauses in the “special number” contracts offered by France Télécom tended to make France Télécom’s trademarks (*numéro vert*, *numéro azur* and *numéro indigo*) indissociable from the telephone numbers themselves, and thus constituted a restraint of competition. According to the court, the registered trademarks are widely known in the industry and among the public, while the special call centre numbers are closely linked to the corresponding trademarks and are used in this way by businesses and governments in their communication policy. In such a context, the clauses challenged by Cegetel could encourage France Télécom’s customers to abandon effective “portability”¹, since it would deprive them of a key element for identifying their service, or would force them to undertake costly revisions in their advertising and documentation. Under these conditions, the challenged clauses would mean that clients wishing to keep a widely known identification for their special telephone numbers would remain dependent on their original provider, and this would imply an abuse of loyalty provisions contrary to regulations opening the market to competition, and would pose an obstacle to market entry by other operators.

¹ Competition was supposed to be intensified with the introduction of number portability, under which a subscriber of one telecommunications operator (for example a company with a toll-free number) could switch to a different operator while retaining the same call number.

32. In examining the conditions for ordering interim relief, the court noted that under current market circumstances, where substantial sales are involved, the challenged practice represents a serious and immediate threat both to the economic sector concerned, because the emergence of competing offers is delayed, and to Cegetel, which finds its further development blocked. The court held that the conditions for imposing interim relief were met, and that the Competition Council was quite right in ordering France Télécom to suspend application of clauses 3.3 and 14.4.2 until the matter was finally settled.

33. However, the court noted that any measure based on article L. 464-1 of the Commercial Code must be proportionate and thus strictly limited to what is necessary to deal with the emergency situation and to preserve the interests of the complaining party, without excessively prejudicing the interests of the defending party. In the specific case, it found that the Competition Council had not respected this principle, because its injunction represented an unlimited constraint for the duration of proceedings, requiring the holder of a trademark to license its use unwillingly to third parties, whereas the evidence at hand showed that the essential obstacle to portability is the obligation of firms to renew all their communication supports if they stop using those covered by France Télécom's trademarks.

34. The Court therefore amended the Council's decision (03-MC-02) in part, deciding, in the interests of proportionality, to limit provisionally the restriction on the operator's trademark protection rights, with the effect that clients that cancelled their "special number" contracts, with portability, could use those trademarks only in publicity materials, of whatever nature, that existed at the time of the Council decision.

1.2.2 Summary of decisions by the Court of Cassation

35. In 2003, the Court of Cassation handed down 11 rulings in respect of appeals against Paris Court of Appeal decisions on challenges to findings of the Competition Council. It dismissed eight appeals and quashed three rulings of the Court of Appeal.

1.2.3 Summary of decisions by criminal, civil and commercial jurisdictions

a) Criminal action taken in respect of anticompetitive practices and restrictive business practices

36. In 2000, the DGCCRF conducted several investigations in the course of monitoring compliance with the provisions of Title IV, Book IV, of the Commercial Code

37. In particular, investigations focused on business co-operation services rendered by distributors to suppliers. These specific services are subject to formal invoicing obligations, and must also be covered by a written contract of which both parties have a copy. These rules can be violated by issuing fictitious invoices, and several such cases were prosecuted during 2003 with the imposition of severe penalties.

38. The ATAC Company was convicted by the correctional court of Lille on 24 October 2003 and fined €30,000 for issuing commercial invoices that were too vague about the business cooperation services provided and were thus ruled a violation of article L. 441-3 of the Commercial Code.

39. Three other distributors were fined to the tune of €45,000, €50,000 and €60,000 for the same offence, in three decisions issued in 2003 that are not yet definitive.

40. Still in the area of invoicing, a ruling on 11 September 2003 of the Court of Appeal of Rennes convicted health professionals of artificially inflating their claims to the CPM (the health insurance system) by failing to discount the rebates they received. Each person was fined €15,000 and required to pay €4,000 in damages to the CPM.

41. The high court of Limoges, on 12 December 2003, fined a company and its president €10,000 and €1000, respectively, for unfair "loss leader" practices

42. On the basis of article L. 420-6, the high court of Verdun, on 6 August 2003, imposed fines on several business managers, in the amounts of €2000, €10,000, and €30,000, for illegal collusion in bidding procedures, ruling that the conditions of article L. 420-6 relating to "natural persons ... taking part personally and decisively ... with intent to defraud" were amply fulfilled.

b) Civil action taken in respect of business practices

43. The relations between suppliers and distributors can give rise to unfair practices. The solicitation of financial benefits in exchange for business co-operation services or discounts are considered unfair when these benefits are disproportionate to what the supplier is offering in return. Those who engage in these discriminatory practices are legally liable for their actions.

44. Nevertheless, appellant companies remain very reluctant to ask the courts to award commercial damages in connection with these practices because they are afraid that their distributors will take retaliatory measures or discontinue stocking their products.

45. The amendments made to Article L. 442-6 of the Code of Commerce by the New Economic Regulations Act (NRE) of 15 May 2001 will make it possible to broaden action in this field since the Minister is now allowed to ask the courts to invalidate illegal agreements, to order the reimbursement of undue sums, and to impose fines of up to €2 million.

46. Furthermore, cases involving sudden decisions to discontinue stocking distributors' products with no written advance notice have been brought before the courts on the basis of Article L. 442-6 I 5 of the Commercial Code (formerly Article 36-5 of the Ordinance of 1 December 1986). The Minister responsible for Economic Affairs has often intervened voluntarily in cases that enabled plaintiffs to obtain substantial damages when the sudden cessation of business relations was unfair.

47. For example, in the case of Emile & Julien vs. Natalys, the Paris Court of Commerce, in a ruling of 15 October 2003, assessed damages and interest of €705,580 against Natalys for the sudden breach of a business relationship.

48. In another case, the referrals section of the high court of Créteil on 10 June 2003 upheld the Minister's ruling in which he found that Mortaud had unfairly cut off a relationship, but the court did not accept the charge of unfair discrimination, arguing that while there was differential treatment, this was justified by compensating circumstances.

2. *Mergers and acquisitions*

49. The year 2003 saw a sharp increase in the number of mergers investigated. This was the first full year of application of the new national system for reviewing mergers introduced by the NRE law of 15 May 2001, which came into force on 18 May 2002.

2.1. *Cases dealt with by the DGCCRF: activity profile*

	1998	1999	2000	2001	2002	2003
Actions reviewed, of which:	70	67	53	42	143	240
Approved	28	27	30	22	118	206
Referred to the Competition Council	6	6	8	6 (1)	6	1
Approved with undertakings or injunctions	3	8	9	6	7	7
Abandoned					1	5
Tacit agreement					4	11
Review inapplicable					5	6
Notification withdrawn					3	4
Art. 22 dismissal					1	0
Disallowed	1	1	1	0	0	0

(1) of which two without notification

2.2. *The first full year of implementation of the new NRE mechanisms*

50. A particularly large number of transactions were submitted in 2003 to initial review (lasting five weeks, or up to three additional weeks if the parties submit undertakings during weeks 3 to 5). The Minister took 231 decisions, an increase of 54% over 2002. Two cases were referred to in-depth review of merits (in a referral dating from the end of 2002); in this case the Competition Council has three months to render its opinion, and the Minister has a further four weeks for his decision, a deadline that can be extended by three weeks under the same conditions as in the initial phase.

51. During this time, merger notifications and ministerial decisions are posted on the DGCCRF web site (<http://alise.finances.gouv.fr/concentration>) so that interested parties (competitors, customers, and suppliers) can submit their observations on the cases examined.

2.3. *Examples of major operations dealt with in the initial phase*

52. Seven transactions were approved, subject to undertakings submitted by the parties. Two transactions (one of which was referred at the end of 2002) were referred to the Competition Council for opinion: the first, which was referred at the end of 2002, involved the takeover of Comareg by France Antilles, in the free-distribution newspaper sector. The transaction risked creating local monopolies for the new entity, and was approved only against commitments to divest itself of certain publications.

53. The second referral concerned Experian's takeover of Atos Origin in the cheque processing business. Despite the banks' purchasing power, the Minister considered that the concentration of the two largest players in this market would reduce competition, because of the high entry barriers and the unlikelihood that the banks would be able to recover any price increases. The transaction was approved subject to undertakings, designed essentially to encourage the development of other players in the market.

2.4. *Referral of a transaction to the European Commission pursuant to article 22 of Regulation 4064/89*

54. In the Lagardère/Vivendi Universal Publishing case, the Commission decided, on 23 July 2003, not to refer the case to the French authorities as they had requested on 14 May. After an in-depth review, it approved the transaction on 7 January 2004.

III. The role of the competition authorities in formulating and implementing other measures, such as regulatory reform measures and trade or industrial policy measures

55. In addition to paying special attention to the conditions under which sectors being deregulated, such as electricity and gas, were being opened up to competitive forces, and within the framework of inter-ministerial co-ordination, the competition authorities made their contribution to the government's review of regulatory developments.

IV. Enforcement of competition laws and policies by the Competition Council

1. Action against anticompetitive practices, including cartels and abuse of dominant position

a) Summary of the Competition Council's activities

Disputes decided in 2003

	2002	2003
Examinations on merits:	47	56
• Penalties imposed	13	21
• Dismissed	34	35
Interim relief measures	9	4
Inadmissible/rejected	28	16
Total	84	76

56. The Council rendered 76 decisions in 2003, following review or investigation. These included 21 decisions to impose penalties (2 injunctions and 19 financial penalties), 35 dismissals, 4 relief measures, and 16 decisions of inadmissibility or rejection. Despite the lower number of decisions (76 in 2003 versus 84 in 2002), two positive trends can be noted: there was an increase in the number of decisions on merits (56 in 2003 versus 47 in 2002), and there were no stays of proceedings. Decisions to stay proceedings are traditionally taken into account in the figure for the number of cases resolved, whereas in fact these decisions do not close the case but simply send it back to the first phase. The decline in the number of decisions on requests for relief measures is not significant, because the method of accounting for these decisions was changed in 2003: they are now classed under the category of "interim relief measures" only if they involve such measures. In contrast to previous years, decisions whereby the Council rejects a request for relief measures (whether or not the referral on merits is rejected) are now recorded as decisions of inadmissibility or rejection. In 2003, eight requests for relief measures were rejected and five were set aside after the complaining party dropped the complaint. There was a significant reduction in the number of cases rejected or declared inadmissible, reflecting a deliberate policy of screening private complaints, which in previous years were a major source of inadmissibility decisions.

Opinions issued in 2003

57. The Council rendered 22 opinions in 2003, of which 12 dealt with general questions of competition (article L. 462-1), one concerned a draft decree (article L. 410-2), and four involved court referrals (article L. 462-3); one opinion was handed down at the request of the Telecommunications Regulatory Authority (ART) and one at the request of the Electricity Regulation Commission (CRE). One opinion was issued in the context of an application for leniency (article L. 464-2 III).

Cases handled

	No. of cases pending at 31/12/2002	New cases in 2003	Cases closed in 2003	No. of cases pending at 31/12/2003
Cases of substance	304	59	89	274
Relief measures	5	17	17	5
Enforcement of injunctions	3	3	2	4
Opinion	23	18	28	13
Total	335	97	136	296

58. For the first time since 1993 the number of cases pending exceeded 300. The picture varies significantly, however, for different types of cases. For cases of substance, the backlog represents about three years of work, while for requests for opinions, it has declined sharply and represents no more than six months' work. It should be noted that the sharp decline in pending opinions reflects the Council's efforts to deal promptly with references from the courts, where the backlog was reduced to zero by year's end. Interim relief measures are in a different category, since the Council observes an average time limit of three months for processing them: thus the figure does not really represent a backlog of cases, but simply a "snapshot" of cases being considered at 31 December.

The Council's activity by economic field

59. As in 2002, the construction sector accounted for the greatest number of cases in 2003. The telecommunications sector was also very important, although the number of cases was down from the previous year (reflecting in part the great number of relief measure cases handled in 2002). The most significant developments in the last year, however, were the swift rise of the insurance sector to third place, and the growing importance of the media industry and of the chemical industry (particularly for pharmaceuticals), where the number of decisions and opinions doubled. Government procurement accounted for 15 decisions and three opinions, primarily in the construction and civil works sector, which remains of primary economic importance.

Penalties imposed

	1997	1998	1999	2000	2001	2002	2003
No. of firms or groups penalised	82	76	58	67	116	103	57
Value of penalties (€millions)	24.6	13.7	9.3	14.6	51.2	64.3	88.3
Average penalty (€millions)	0.30	0.18	0.16	0.22	0.44	0.62	1.55

60. In 2003, the Council assessed 19 financial penalties totalling nearly €8.5 million (compared to €65 million in 2002), for an increase of 36% over the previous year. While the number of individual penalties assessed varies from year to year, the total value of penalties has been rising steadily since 1997, if the penalties imposed on the banks in 2000 are excluded [*the meaning of this is not clear --?? Perhaps something like this: "if the spike represented by penalties imposed on the banks in 2000 is disregarded"?? The figures do not show any spike, however. Perhaps better to delete this phrase...*]

b) *Description of major cases*

- Cartels (article L. 420-1)

Market cartel for medical gasses used in hospitals, involving two Air Liquide subsidiaries (decision 03-D-01).

61. The Competition Council fined two subsidiaries of Air Liquide (Air Liquide Santé and Carboxyque Santé) that supply medical gasses to hospitals, for agreeing to collaborate on several public tenders. The amount of the penalties was €4.3 million. In an attempt to improve the group's margins, the two companies agreed in advance on prices and market sharing. In particular, they determined geographical zones for mutual development and shared customers between themselves. The Competition Council stressed the especially serious nature of any policy aimed at deceiving public purchasers. When determining the amount of penalties, it took into account the size of the market concerned (a total of more than three billion francs over the three years in question) and the dominant position of the two companies accused (70% of the market). Hospital demand for gasses tends to be very price-inelastic, due to their essentially non-substitutable nature, and hospitals are very reluctant to switch suppliers for fear of interruptions in supply that would endanger patient safety. Moreover, medical gases are medicinal products, the cost of which is fully covered by social security institutions, thereby guaranteeing the supplier a fully creditworthy market. Given these circumstances, there is considerable potential for price increases, and competition in the bidding process represents the only effective safeguard against price distortions.

Fuel distribution on the *autoroutes* (decision 03-D-17)

62. The Competition Council imposed penalties on the major oil concerns. The competition authorities have in fact stepped up their surveillance of sectors where supply is highly concentrated. Following a referral by the Minister of Economy, the Council handed down sanctions against Total Fina Elf France, Shell, Esso SAF and BP France, imposing fines totalling €27 million. During the inquiry, it was revealed that, at the behest or with the consent of their respective oil companies, the service stations exchanged information by telephone several times each week on the prices charged for different types of fuel. The same day, this information was systematically passed on to the head offices of the oil companies, which then determined the prices they asked their station operators to apply based on their competitors' prices. The Council took the view that these practices had necessarily caused prices to converge rapidly at a higher level than that which would have applied if the oil companies had conducted independent pricing policies. The Council stressed that these practices are particularly serious, in that they were carried out within an oligopolistic market, and that consumers of fuel on the *autoroutes* (motorways) are essentially a captive clientele. The Council added that the practices concerned were widespread and, as has been admitted by service station managers who were questioned, they have been carried out "for some years". The decision was overturned by the Paris Court of Appeal (ruling of 9 December 2003), but the prosecutor in turn appealed that ruling case to the Court of Cassation in December 2003.

Marketing cartel for strawberries (decision 03-D-36)

63. The Competition Council imposed a fine of €20,000 on the strawberry growers' Association of Lot-et-Garonne (AIFLG) for illegal price-fixing. The French strawberry season extends from early April to July. The market for Lot-et-Garonne's strawberries is crucial to the French strawberry business, for this department produces nearly a quarter of French strawberries, in particular the Gariguet variety, which ripens at the beginning of April. This early maturity gives Lot-et-Garonne's strawberry producers a jump on producers in other French departments, allowing them to corner the market for about three weeks between the time imports from Spain and Morocco wind down and output from other departments comes on the market. The AIFLG had established a market management unit that imposed a fixed selling price on its member producers and shippers, and on several occasions it exerted pressure on supermarkets not to conduct any promotional campaigns with this product. Under European law, producers' associations have the right to regulate prices and to deviate from anti-cartel provisions, but only if they are recognised by the State. The AIFLG does not have such official recognition, which is accorded only to the fruit and vegetable growers' association, Interfel. AIFLG's practices kept strawberry prices artificially high, to the detriment of the final consumer, especially over the period when nearly all French strawberries on the market come from the Department of Lot-et-Garonne.

Price-fixing agreement for school calculators between Texas Instruments and Noblet (Casio importer) and major distributors (decision 03-D-45)

64. Following a national inquiry, the Competition Council imposed fines totalling €3,870,100 on Texas Instruments France and on Noblet (exclusive French importer of Casio calculators) for anticompetitive behaviour in the school calculators market, as well as on some major distributors, including Carrefour, Majuscule and Distributeurs Associés, that had participated in such arrangements. The two companies had established vertical agreements with their distributors to offer calculators at the same selling price throughout the country. As a result, prices for school calculators were everywhere almost identical. Texas Instruments France and Noblet also engaged in horizontal agreements, exchanging information on their sales strategy and on their product range policies. The effect was the simultaneous disappearance of the less-expensive models under both trademarks, and a significant increase (+ 16.3%) in the price of school calculators. The impact was all the more noticeable because the market in question is essentially a captive one - teachers generally recommend a specific model of calculator to their students, and CASIO and Texas Instruments are in a position of effective duopoly (with a combined market share of 89%).

65. The Council considered these practices especially serious because they involved the supermarkets. Carrefour, for example, presents itself as having an aggressive pricing policy and regularly claims in its advertisements at the beginning of the school year that certain items are being offered at cost price. Supermarkets account for 60% of Noblet sales, and 52% of Texas Instruments sales in France, and Carrefour is the most important customer of both companies, representing sales of more than 20 million francs for each supplier.

- Abuse of dominant position (article L. 420-2)

The tied rebates offered by Sandoz Laboratories (Decision 03-D-35)

66. The Competition Council imposed sanctions on Sandoz Laboratories (which has now become Novartis Pharma SA) for abuse of a dominant position, and fined them a sum of €7.8 million. Sandoz manufactures and markets two proprietary medicinal products, both of which are patented and are based on the same active ingredient, cyclosporin. That drug is considered indispensable in hospitals for anti-rejection treatment of transplant patients. The Council took the view that Sandoz, which held a dominant

position in the market for cyclosporin, had abused that position through a system of tied rebates that involved granting reductions on the purchase price of cyclosporin, on condition that the hospital also purchase other Sandoz products, even if cheaper alternatives were available from competing companies. The Council considered this practice particularly serious because cyclosporin was an innovative and essential medicinal product. It also noted cyclosporin was the product that accounted for the highest expenditure in hospital budgets and that some of the medicinal products that Sandoz attempted to force out of the market were generic products available at prices substantially lower than those of brand-name ones.

France Télécom fined for breaching an injunction on charges for accessing its universal directory (Decision 03-D-43)

67. In a 1998 decision (98-D-60) the Council had issued injunctions against France Télécom for abuse of a dominant position on the market for telephone subscriber lists, and had imposed fines. Acting on a complaint filed by Sonera (now Fonecta) and Scoot France, the Council fined France Télécom €40 million for failing to respect the injunctions issued against it. Sonera is promoting its offer of telephone information as an added-value service, and this activity competes with the service offered by France Télécom. Scoot France, for its part, wishes to develop an "*intelligent directory*" service, via telephone and Internet. Citing the need to access the list of telephone subscribers in France Télécom's universal directory, these two companies contested the tariffs imposed on them by France Télécom, which they insist prevent them from achieving economically viable development. The Competition Council found that France Télécom had breached the injunctions issued against it, in the following respects:

- The prices demanded for consulting the directory information base via the services of France Télécom's 100%-owned subsidiary do not reflect costs;
- The sale prices of directory information are discriminatory compared with those practised within the France Télécom group itself;
- France Télécom's charges for its activity as file manager do not reflect costs.

68. In order to appreciate the seriousness of the practices in question, the Council took into consideration the fact that France Télécom had already been warned that it was over-charging operators for accessing information contained in the universal directory list. The Council also noted that these practices harmed consumers by hindering both the lowering of prices of the services concerned (directory and information services) and the appearance of innovative services.

- Interim relief measures

Broadcasting rights for French First League football matches (Decision 03-MC-01)

69. TPS (a satellite TV broadcasting company) submitted to the Council a complaint accusing the French *Ligue de Football Professionnel* (LFP) and the companies of the Canal Plus group of abusing their dominant position and entering into an anticompetitive agreement. The Council ordered interim relief measures.

70. While awaiting a decision on the full merits of the case, there were no grounds to rule out the possibility that:

- if broadcasting rights for French First League Championship matches are granted exclusively to Canal Plus, an operator with a dominant position in the pay-per-view television market, competition might be restricted as a result;

- the bid put forward by Canal Plus, combining very low lot-by-lot valuations and a very high exclusivity bonus, can be considered a bid designed to force TPS out of the market;
- Canal Plus and the LFP might have collaborated to give preference to bids by Canal Plus, given the contractual links between Canal Plus and football clubs whose presidents also sit on the LFP's Board of Directors. The Council decided that interim measures were justified by the threat of serious and immediate harm to the plaintiff company, the sector concerned and consumer interests. The Council took the view that as soon as the public deemed it definitive, any announcement that Canal Plus had won exclusive rights to the First League Championship would cause immediate harm to conditions for marketing TPS subscriptions, and that the damage caused would be even more serious since the rigid nature of subscription mechanisms will make it extremely difficult to compensate for any loss of subscribers during this period. The Council also noted the risk for consumers of a return to a situation where Canal Plus has exclusive rights to broadcast the French First League Championship: the financing required for such exclusivity could result in an increase in the price of subscriptions, a possibility that Canal Plus did not rule out before the Council. Finally, referring to the opinion of the CSA (*Conseil supérieur de l'audiovisuel*, French Broadcasting Regulator), the Council observed that the disappearance of one of the two satellite television operators would reduce consumer choice. The Council accordingly asked the LFP, Canal Plus and Kiosque to suspend the effects of the award of broadcasting rights for First League football matches until the Council decides the merits of the matter. That decision was appealed to the Paris Court of Appeal. At that court's request, mediation proceedings were undertaken, in which the parties reached an agreement (confirmed in a ruling of 29 April 2003), and the Council's consideration of the merits was terminated (May 2003).

The end of TDF's monopoly on broadcasting programmes for Radio France (decision 03-MC-03)

71. Acting on a complaint filed by Towercast, the Council imposed interim measures against Télédiffusion de France (TDF) to ensure that the public radio broadcasting sector could be opened up to competition, in accordance with European Directive 2002/77/CE (which should have been transposed into national law by 25 July 2003 at the latest). By law, TDF is in a situation of legal monopoly for broadcasting all Radio France programmes on the FM frequency band. TDF's articles of association and Radio France's official missions and specifications require them to sign agreements for the broadcasting and transmission of Radio France programmes. The European directive on competition in the markets for electronic communications networks and services stipulates that a Member State "*shall not grant or maintain in force exclusive or special rights for the establishment and/or the provision of electronic communications networks, or for the provision of publicly available electronic communications services*". Referring to ECJ and *Conseil d'État* (Administrative Supreme Court) case law, the Competition Council took the view that the national authorities of Members States must refrain from applying national law if it does not comply with the stated aims of a Directive that has not been transposed in time or which has been incorrectly transposed. Consequently, the Council found that there were no grounds for ruling out the eventuality that TDF had abused its dominant position, by extending the agreement giving it exclusive rights to broadcast all Radio France programmes until 31 December 2007. It ordered TDF to refrain from taking advantage of the law and Radio France's official missions and specifications, and to propose separate detailed offers. Thus, in the event that Radio France should wish to renegotiate the current FM agreement or carry out another call for tender, TDF would be obliged to respond with a detailed offer (site by site and frequency by frequency), without taking advantage of its legal monopoly to impose a global offer covering all Radio France programmes. This unbundling requirement should enable

alternative operators, such as Towercast, to provide competing offers for broadcasting certain Radio France frequencies.

Press distribution services (Decision 03-MC-04)

72. Following a referral by Messageries Lyonnaises de Presse (MLP), the Competition Council ordered interim measures against Nouvelles Messageries de Presse Parisienne (NMPP) and Société Auxiliaire pour l'Exploitation de Messageries Transport Presse (SAEM-TP). MLP had complained of certain practices by NMPP, intended to exclude it from the regular press distribution market by denying MLP access to the computer system installed by NMPP on depositories' premises (kiosks, bookstores, etc.), and practising anticompetitive pricing in conjunction with SAEM-TP. The Council emphasised that supply in the press distribution sector is highly concentrated, since the two largest suppliers, NMPP and SAEMTP, hold some 85% of the market. The Council noted that the two companies belonged to the same group (Hachette) and practised highly similar sales policies, and that this was likely to limit competition between them. Thus MLP, with its 15% market share, appeared to be their sole competitor. The Council observed that the pricing practices challenged, as well as the refusal to allow direct access to the software package "Presse 2000", were likely to cause serious and immediate damage to MLP. It consequently issued interim measures. Pending a judgment on the merits of the case, the Council ordered NMPP to allow MLP direct access to the core section of the "Presse 2000" package, under fair economic conditions, allowing automatic transfer of files between the MLP computer system and "Presse 2000". It also ordered NMPP and SAEM-TP to suspend and/or refrain from renewing certain pricing practices.

- Advisory activity

The Monéo electronic purse (Advisory Opinion 03-A-06)

73. Following a referral from a consumer protection association, the Council gave its verdict on the state of competition in the management and marketing of Monéo. The Council noted the existence of a *de facto* monopoly, and observed that where jointly-owned bank subsidiaries are created for the purpose of introducing and managing Monéo (SFPEI, BMS), competition is likely to be restricted. However, it took the view that this restriction on competition is offset by the resulting economic progress it represents. Where banking institutions come together in this way, payment methods between them become more standardised. This in turn is a key factor in the success of Monéo, from the viewpoint both of banks and retailers, whose technical management costs are lowered. For users, this unique system provides a universal payment method, which is particularly suited to small transactions, and is attractively priced compared with traditional bank or payment cards. While not intended to replace current payment methods entirely, it is nevertheless probable that the electronic purse will eventually be the preferred method for payment machines in public places, and could for example become widely used for automatic payment of public parking charges, given the security problems with traditional meters, where the effective return from cash payments is low. In this context, the Council underlined the importance for the consumer of being free to choose a particular Monéo supplier. It believes that the existence of the green Monéo card (a prepaid card not linked to a bank account) is likely to guarantee this freedom of choice, since it means the customer is not restricted to his own bank. The Council therefore recommended that efforts to ensure a wide circulation for Monéo be continued and that the electronic purse be marketed effectively. In addition, it indicated that it would like to see the green Monéo distributed widely by financial institutions that provide a public service, such as La Poste (the French Post Office) or Les Caisses d'Épargne (Building Societies).

Competition in postal services (Advisory Opinion 03-A-06)

74. Following a referral from the Minister of Economy, the Competition Council issued an opinion on a government bill amending the *Code des postes et télécommunications* (French code of posts and telecommunications). The bill, which will also create a regulatory authority charged with overseeing the postal sector, forms part of moves to transpose Directives 97/67/EC and 2002/39/EC on the development of the postal services market and improvement in the quality of services within the European Community. The government bill notably defines the scope of universal postal service and its financing, as well as the system for regulating the introduction of competition to the sector. Concerning the way regulation is to be organised, the Council emphasised the need for a clear distinction between regulation of universal postal service (the exclusive jurisdiction of the Minister) and regulation of other services (which must be regulated by the future authority). In the Council's opinion, only such a distinction could create conditions conducive to the development of competition in line with the directives. In this respect, it considered that while the Minister should indeed be responsible for defining universal service and its scope, the task of overseeing the services offered by La Poste (the French Post Office) to meet these objectives should fall to the regulator alone. Regarding price-monitoring procedures, the Council recommended that prior approval by the sector's regulatory authority (the ARTP) be required only for the prices of services reserved for the incumbent operator and that the prices charged by La Poste for other services, which fall within the scope of universal postal service open to competition, should be supervised according to common law. In the Council's opinion, this approach would guarantee fair competition between La Poste and its rivals. With regard to universal service not open to competition, it indicated that the public subsidies paid to La Poste as compensation, to enable it to fulfil its specific obligations, must be in proportion to its real operating costs. Furthermore, there must be absolute transparency in La Poste's accounts to avoid any cross-subsidy, in accordance with the European directives. Finally, the Council observed that the government bill requires La Poste to fulfil two extra obligations in terms of the universal postal service, neither of which are listed by the directives. La Poste retains its public interest mission in the field of press distribution, in order to promote "multiple sources of general political information", and also in the field of urban and regional planning, by maintaining post offices. Maintaining these obligations, which are not directly linked to the universal postal service, could potentially distort competition. It would also require specific financial compensation, to save La Poste from an undue cost burden as operator of the universal service.

Transposition of the "Telecoms Package" into French law (Advisory Opinions 03-A-07 and 03-A-08)

75. The Council issued two opinions concerning the government bill on electronic communications. The bill is intended to transpose a series of legislative texts into French law. The texts, which were adopted by the EC in 2002, are collectively known as the "Telecoms package". The Council therefore gave its verdict on the provisions designed to introduce competition to the sector, and on the regulatory system set-up. In its opinion 03-A-07, the Council welcomed the changes proposed by the government bill concerning segmentation of the universal service: possible supply by several operators, introduction of negative auction procedures, neutral financing methods, etc. However, it noted the risk that the proposed segmentation might result in reserving all aspects of universal service to the incumbent operator, whereas that service could in fact be provided under identical conditions by several operators across the country, provided the regulator imposes a uniform framework. In this respect, the Council suggested that the framework should take the form of price ceilings and not uniform prices. This would allow the efficiency gains achieved from deployment of alternative operators' networks to be reflected in prices. The Council indicated that it had reservations over the reforms to the instruments used to regulate the sector. It underlined the ambiguous nature of the conditions under which *ex-ante* obligations are to be imposed and justified. It also indicated that the definitions of relevant market, dominant position and joint dominant position, which must be used by the telecommunications authority in

conjunction with the competition authorities, are equally ambiguous. In its complementary opinion 03-A-08, the Council noted that ambiguities persist in the field of audiovisual regulation, and observed that it would be advisable to distinguish between the aims of pluralism and competition. It considered that the CSA (Broadcasting Regulator) should have powers reserved for settling disputes with the aim of guaranteeing pluralism. It also recommended that the government bill should stipulate that the Competition Council must be consulted in cases where the CSA intends to take account of competition issues when granting authorisation to use radio resources.

2. *Mergers and Acquisitions*

76. The Competition Council issued two opinions on mergers and acquisitions (article L. 430-5 of the Commercial Code)

Acquisition of Comareg by France Antilles (opinion to 03-8-03 of 20 March 2003)

77. Vivendi Universal Publishing sold its entire equity interest in Comareg to France Antilles. France Antilles and its subsidiaries, which specialise in the regional press and in the free-distribution advertising press, belong to the international press group created by Robert Hersant. At the time of the merger, they published 14 regional dailies, seven of them in the DOM-TOMs, and owned nearly 100 free newspapers. Comareg and its affiliates specialise in the free-distribution advertising press and, at the date of the merger, were publishing around 160 free newspapers under the name *Bonjour*, distributed throughout France.

78. The Council noted that the merger increased the already high degree of concentration in the sector, where the new entity would own about 260 titles, compared to 160 titles for Spir Communication, a subsidiary of the Ouest-France regional dailies group, and 50 titles for S3G, which belongs to the Sud-Ouest regional press group.

79. The merger would have a direct impact on local markets where both France Antilles and Comareg published newspapers: it would either create a local monopoly for those two titles, where there was no competing free newspaper, or it would reinforce their dominant position where there were competitors.

80. The Council also examined the impacts of the merger on the market for mass-mailed free newspapers. It was in fact planned since 2001 that the mass mailing activities of Comareg, through Delta Diffusion, and those of La Poste would be merged into a new company. Following the acquisition of Comareg by France Antilles, the latter would hold around 20% of this new distribution company, which would have an estimated 50-70 percent share of the mass distribution market, ahead of Adrexo, which belongs to the Spir group and has a 20-30 percent share. The Council also found that the exclusivity contract between Comareg and the new distribution company, the beneficiary of which would be France Antilles, would impede access to the free press market even further for small publishers lacking a distribution network.

81. The Council considered that, that while entry barriers to the market are low, the recent trend was for independent publishers to disappear from the market, meaning that new entries would likely be too few to limit the threat to competition. It also considered that the expected efficiency gains would not be enough to offset the anticompetitive impact of the merger.

82. On the other hand, the Council did not consider that the operation would create a dominant collective position on markets where the new entity would still be competing with the Spir and S3G groups, because the conditions of market transparency, volatility of demand, and market stability were not met. The Council noted that prices were negotiated case-by-case and that the success of *Paris Vendu* showed that the market shares of the oligopoly's members were not stable.

83. In the end, the Council was of the opinion that the proposed merger was unlikely to bring sufficient economic progress to offset the threat to competition represented by the new entity's acquisition of a dominant position on ten local markets where the new group was in a monopoly situation, and on three markets where the two cumulative conditions prevailed: i.e. the new group's over-70% share of the free press market, and the Hersant group's ownership of the regional daily press.

84. The Council suggested that structural and behavioural measures could be taken on these markets to re-establish a sufficient degree of competition: the divestiture of some titles could be accompanied by a formal confirmation by France Antilles of the commitment it had given during the hearings not to link the prices it offers on the free press market with those it offers on the regional dailies market.

85. Finally, the Council's opinion took note of the statements made during the hearings by France Antilles to the effect that it had no interest in a "handshake" exclusivity clause of the kind negotiated by Comareg with La Poste, and that it would renounce any future benefit from that clause. The Council also noted the commitment by the representative of La Poste group that it would pursue a commercial policy of respecting strict neutrality for all publishers, and that it would refuse to negotiate new exclusivity clauses.

86. The minister approved the merger only after France Antilles signed behavioural and structural commitments, whereby it would divest itself of one title per zone in the 14 zones in which the merger would place it either in a monopoly situation or in competition with a small independent newspaper not backed by a press conglomerate.

Acquisition of Atos Investissement 4 by Experian Holding France (Opinion 03-A-15 of 25 July 2003)

87. Atos Origin Services is engaged in business document processing services. It is also active in other sectors, including customer relations management (loyalty card systems for the oil and distribution industries, consulting, and exploitation of marketing databases), and transactions management (processing of bankcard transactions, secured Internet payments, and "electronic purse" transactions). The Experian group is a British-based international group active in some 15 countries. Its French affiliate, Experian Holding France SA, is engaged in several sectors: industrial processing of business documents (cheques and other documents); call-centre management; electronic services (electronic payment, bankcards, e-commerce); distribution of company information via Minitel and Internet; business decision aids (risk management, marketing, databases). Because document processing is the only business in which the two companies are both active, the Council limited its review to this sector.

88. In the market for the outsourced processing of remittances and other documents, the Council found that the new entity would be active primarily in remittance processing, and only to a limited extent in the processing of other documents, and that under these conditions the merger was unlikely to affect competition.

89. On the cheque processing market, the merger would unite the two leading market players that handle 46% by volume and by value of contracts outsourced by banks. The Council noted, however, that market share is only one of the factors that can give a firm a dominant position, i.e. the ability to thwart effective competition in a given market by behaving independently vis-à-vis its competitors and its customers, and that other factors could constitute obstacles to the exercise of such market power.

90. Among these factors, the Council pointed to the three main competitors of the new entity, namely Tessi, Euro TVS and Safig, which constitute a credible competitive alternative. It found that these competitors often act as subcontractors, a practice that cuts both ways since, on one hand, it induces dependence vis-à-vis the prime market players, but it also enables them to win recognition and to acquire the necessary expertise. On this point, the Council noted that Experian had undertaken during the hearings

to remove from its subcontracting agreements the clause prohibiting customers from dealing directly or indirectly with subcontractors for a period of 12 months from the end of the contract.

91. With respect to market entry barriers, the Council found that the cheque processing business was evolving technologically, and that this was having different impacts on the ease of market entry. On one hand, the dematerialising of cheque processing, which reduces the need for geographic proximity between bank branches and processing centres, makes national coverage less important. The number of processing centres has already declined substantially. On the other hand, those same trends produce economies of scale that encourage larger processing centres. On balance the Council considered, however, that while competitive size constraints are one of the factors in explaining concentration, they do not necessarily constitute an absolute obstacle to market access.

92. The Council also examined the rigidities that might result from the cost to the banks of switching providers, which could affect the price elasticity of demand and thereby constitute an obstacle to market entry by new suppliers. The facts of the case led the Council to conclude that transition costs were real, but not of sufficient scope to prevent the banks from switching providers if prices were raised.

93. In response to the Government Commissioner's objections, the Council discounted the argument that the mere fact that there had been no recent entries into the market could be taken, in the absence of objective evidence of market barriers, to demonstrate that such entry is impossible, noting that this fact could be explained by several other factors. In this particular case, the cheque processing market has undergone changes, because of the dematerialisation of cheque processing, that have generated adjustment costs for operators and have moreover led to a decline in the number of reimbursable processing transactions and thus in business turnover. Market entry barriers are examined as factors that allow existing market players to enjoy above-market profits without the threat of new entrants. The fact that there had been no new market entrants for three years must be viewed within a context where the profitability of operators was declining. Moreover, the Council's analysis of market entry conditions did not find any factors that would impede the entry of new competitors should Experian/Atos be in a position to raise their prices significantly.

94. Finally, the Council noted that the banks' purchasing power would limit the new entity's market clout, particularly since the two companies concerned in the merger were heavily dependent on their main clients, while the banks have already adopted a practice of splitting their outsourced cheque processing work among several operators, and there was nothing to indicate that Experian/Atos were guaranteed a place among those providers. The Council pointed to the many trump cards that the banks held in their negotiations with cheque processors. In effect, they are fully in control of this activity: originally it was done exclusively in-house, and was then gradually outsourced by creating subsidiaries. Some banks maintain an equity interest in certain operators whose business they can promote. Some banks have also maintained an in-house cheque processing capability, and have been able to follow recent developments very closely. In their negotiations with service providers, the banks in fact always have the alternative of taking back this outsourced business.

95. In the end, the Council decided that the concentration resulting from the acquisition of Atos Investissement 4 by Experian was unlikely to diminish competition on the markets concerned.

96. The minister authorised the transaction, subject to a series of undertakings given by Experian.

97. The commitments signed by Experian are intended to promote the development of small players on the market and give them the chance to achieve critical scale and to acquire the technical expertise, know-how and reputation necessary to become credible alternatives. Experian undertook to renounce any benefit from the non-competition clause that it inserted in its subcontracting agreements, so that

subcontractors could respond freely to tenders for the renewal of contracts in which they had been involved as subcontractors. Experian also gave commitments on the minimum processing volumes that it would subcontract to independent suppliers, covering the years 2004 to 2012.

V. Resources of the competition authorities

98. It must be noted, first, that competition is not the sole area of activity of the DGCCRF. It is also actively engaged in consumer affairs and in fraud prevention. It is thus difficult to break down accurately the resources and staff devoted to competition matters, since DGCCRF officers, particularly those in the field, often have duties related at least in part to matters other than competition.

a) Annual budget

99. For the Competition Council, the global budget remained stable from 2002 to 2003 at €8.6 million. Despite this stability, trends in operating and staffing budgets diverged. The operating budget declined slightly, because there was no repetition of the special funding provided in 2002 to finance the international conference that was held on 13 February 2002. On the other hand, the staffing budget grew slightly from €5.7 million to €5.8 million, with the increase going to pay for the transformation and upgrading of certain positions.

b) Number of employees

100. For the DGCCRF, 321 persons, including:

- Combating anticompetitive practices: 169 persons;
- Merger review and law enforcement: 15 persons;
- Litigation: 10 persons.

101. For the Competition Council: 118 persons, including:

- Europe and International Unit: 3;
- Legal Unit: 4 (including 3 on 5-month contracts);
- Rapporteurs: 39;
- Communications: 5

Period covered by the above information

102. The period covered by the above information is from 1 January to 31 December 2003.

VI. New reports and studies on competition policy issues (or bibliographical references)

103. Competition Council

- *Objet, effet et intention anticoncurrentiels*
- *Les monopoles publics dans le jeu concurrentiels*

104. DGCCRF:

105. Four issues of the *Revue de la Concurrence et de la Consommation* were published during 2003, covering various competition policy topics:

No.132 - March/April 2003 : [La contradiction, souvent évoquée, au sein de la politique économique entre contrôle des concentrations et soutien de la compétitivité des entreprises est-elle un faux débat ?](#)

No. 133 - May/June 2003 : [Malentendus ou divergences transatlantiques - Le nouvel essor des aides d'État en droit de la concurrence](#)

No. 134 - July/August 2003 : [L'analyse économique : serviteur ou maître du droit de la concurrence](#)

No. 136 - November/December 2003 : [Le facteur temps dans le droit de la concurrence : le temps de la procédure et le temps des entreprises](#)