Generative artificial intelligence: the Autorité issues its opinion

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Since the public release of the ChatGPT chatbot (created by OpenAI) in November 2022, generative artificial intelligence (hereafter "AI") has taken centre stage in public and economic debate. The questions raised by generative AI range from ethics and respect for intellectual property to the impact on the labour market and productivity. The technology offers numerous possibilities to companies in terms, for example, of content creation, graphic design, employee collaboration and customer service.

The benefits of generative AI will only materialise if all households and companies have access to a variety of different models adapted to their needs. Competition in the sector must therefore be conducive to innovation and allow for the presence of multiple operators.

Against this backdrop, the *Autorité de la concurrence* decided on 8 February 2024 to start inquiries *ex officio* into the competitive functioning of the generative AI sector and to launch a public consultation. As part of this consultation, views from around 40 parties and 10 stakeholder associations were collected.

This opinion aims to provide stakeholders with a competitive analysis of the fast-growing generative AI sector, with a particular focus on the strategies implemented by major digital companies aimed at consolidating their market power upstream in the generative AI value chain (i.e. the design, training and fine-tuning of large language models [LLMs]) or at leveraging this market power in order to expand in this booming sector. The *Autorité* looks in particular at practices implemented by operators already present in cloud infrastructure and at issues relating to access to cloud infrastructure, computing power, data and a

skilled workforce. The *Autorité* also examines investments and partnerships by major digital companies, in particular in innovative companies specialised in generative AI.

Accordingly, the *Autorité* only incidentally addresses the practices implemented by operators downstream in the value chain (i.e. in contact with the end consumer) and does not touch on the consequences of AI for the competitive functioning of the economy as a whole – an issue of major importance that will merit further analysis in the future.

The *Autorité* makes a number of recommendations aimed at boosting competition in the sector:

- with no change to existing legislation, make the regulatory framework applicable to the sector more effective;

- in the event of harm to competition, use the rapid and effective tools of competition law and the law on restrictive competitive practices;

- foster innovation by ensuring better access to computing power;

- ensure a balance between fair remuneration for rights holders and access for model developers to the data needed to innovate;

- ensure greater transparency on investments by digital giants.

PRESS RELEASE OF 28 JUNE

Generative artificial intelligence: the Autorité issues its opinion on the competitive functioning of the sector

See the press release