At the request of the Senate Finance Committee, the Autorité de la concurrence has published an opinion on the local and regional public authority property insurance sector

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Background

On the basis of Article L. 462-1 of the French Commercial Code (*Code de commerce*), the Chair of the Senate Finance Committee asked the *Autorité de la concurrence* for an opinion on the competitive situation in the local and regional public authority property insurance sector in France.

Having consulted and questioned various players (associations representing local and regional public authorities, insurers, the French insurance federation [*Fédération française de l'assurance*], insurance consultancy firms, etc.), the *Autorité* found that the sector, which is strategic for the protection of public assets, is characterised by a highly concentrated offer and dominated by two main operators (Groupama and SMACL Assurances SA), and low competitive intensity.

In its opinion, the *Autorité* found that although local and regional public authorities are not legally obliged to take out property insurance, they generally choose to do so in order to protect themselves against the financial risks associated with claims. Nevertheless, they face a number of obstacles, such as constraints linked to the complexity of public procurement rules, unsuccessful calls for tender and significant increases in premiums and deductibles.

The aim of the opinion is to put forward solutions that could boost supply in the sector and, in particular, to describe the levers available to local and regional public authorities to stimulate competition. The *Autorité* makes seven

recommendations, either to improve the preparation of public insurance contracts (recommendations 1 to 3) or to secure the underwriting of insurance contracts (recommendations 4 to 7):

- **Recommendation 1**: the *Autorité* recommends that local and regional public authorities improve their knowledge of their assets and all their risks. Once identified, local and regional public authorities should be encouraged to take the necessary measures to prevent the occurrence and/or consequences of these risks.
- **Recommendation 2**: the *Autorité* invites local and regional public authorities to seek assistance, if necessary, in preparing and conducting the procedure for awarding their insurance contracts, and reminds authorities that they can share services with other local and regional public authorities or use project management assistance services.
- **Recommendation 3**: the *Autorité* invites local and regional public authorities to share their experience of the competitive organisation of insurance contracts.
- **Recommendation 4**: the *Autorité* recommends that the application of the French Public Procurement Code (*Code de la commande publique*) to local and regional public authority insurance contracts be clarified, by formulating clear practical and legal guidelines for the authorities.
- **Recommendation 5**: the *Autorité* invites local and regional public authorities to extend the deadlines for insurers to respond to their calls for tender.
- **Recommendation 6**: the *Autorité* invites local and regional public authorities to stagger the competitive bidding process and to publicise their calls for tender as widely and as early as possible.
- **Recommendation 7**: the *Autorité* recommends that local and regional public authorities systematically consider the possibility of awarding their contracts by lot before deciding on the next expiry dates of their contracts with operators.

A sector marked by low competition

In its opinion, the *Autorité* found that the local and regional public authority property insurance sector is characterised by an offer that is highly concentrated around two main players, Groupama and SMACL Assurances SA, which account for over 40% of the sector by value. This limited competitive intensity can be explained primarily by the complexity of public procurement rules (which require insurers to have dedicated teams and specific knowledge and skills), and by lower profitability prospects compared with contracts applicable to other professional customers.

Structural factors behind dysfunctions in the local and regional public authority property insurance sector

- **Unbalanced relationship between local and regional public authorities and insurers**

The *Autorité* stresses that the structure and competitive dynamics of the sector place local and regional public authorities in an unbalanced relationship with insurers, which prevents local and regional public authority demand from being fully met.

A substantial number of calls for tender do not receive any response from insurers[1] and, since 2022-2023, some local and regional public authorities have also received offers with upwardly adjusted prices or more unfavourable contractual terms than before.

The *Autorité* also observed an increase in the number of insurance contracts terminated at the insurer's initiative, with notice periods incompatible with the launch of a new call for tenders. Lastly, the *Autorité* also found that contract amendments often impose higher premiums, higher deductibles or lower compensation amounts, which local and regional public authorities are forced to accept due to a lack of alternative.

- **Incomplete knowledge on the part of local and regional public authorities**

It is clear from the investigation and the interviews held that local and regional public authorities have incomplete knowledge of their assets and the claims levels to which their movable and immovable property is exposed. This situation raises a number of problems, in particular in the context of formal procedures, and also makes it more difficult to put in place appropriate preventive measures that would reduce insurance costs.

- **Constraints linked to public procurement rules**

According to the insurers interviewed, the formal call for tender procedure is restrictive for this type of contract, since insurers have to adapt their tender to the specifications determined by the local and regional public authorities and are unable to express reservations or negotiate with the authorities. The contracts that result from the calls for tender may prove ineffective in truly covering the authorities' needs. Furthermore, insurers often have too little time to respond to the calls for tender, which can discourage them from bidding.

The recommendations made by the *Autorité*

In response to the above findings, the ***Autorité*** recommends a series of measures to boost insurers' offers and thus strengthen competition in the sector. The recommendations concern two main areas: improving the preparation of public procurement contracts (recommendations 1 to 3) and securing the underwriting of insurance policies (recommendations 4 to 7).

- **Improving the preparation of public insurance contracts**

To improve the preparation of public insurance contracts, local and regional public authorities must make a greater effort to inventory their assets and better identify the risks to which they are exposed. A better understanding of these elements is essential to defining precise needs that are attractive to insurers. The ***Autorité*** also encourages local and regional public authorities to pool their resources or use project management assistance services, in order to overcome

the technical and legal shortcomings often found in the preparation of calls for tender.

[1] Since 1 January 2023, 24% of local and regional public authorities report having issued a call for tenders to which no insurer responded (Senate Finance Committee report).

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- **Recommendation 3**: the *Autorité* invites local and regional public authorities to share their experience of the competitive organisation of insurance contracts.

- **Securing the underwriting framework for insurance contracts**

The *Autorité* recommends that the application of public procurement rules be clarified, in particular by specifying the cases in which procedures with negotiation or competitive dialogue could be used, extending the deadlines for responding to calls for tender and staggering the launch of their calls for tender over the year so that not all issued at the same time. These solutions would help local and regional public authorities to adapt their expectations to the constraints

of insurers, while broadening the range of possible responses.

Lastly, in the event of the risk of an unsuccessful call for tenders, the *Autorité* stresses the importance of considering the possibility of awarding contracts by lot, which would make it possible to structure calls for tender more flexibly, opening up opportunities for mid-sized operators and encouraging a greater diversity of tenders.

- **Recommendation 4**: the *Autorité* recommends that the application of the French Public Procurement Code (*Code de la commande publique*) to local and regional public authority insurance contracts be clarified, by formulating clear practical and legal guidelines for the authorities.
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on the local and regional public authority property insurance sector

See the full text of the opinion (in French)

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