The Autorité fines Doctolib €4,665,000 for abusing its dominant position in the online medical appointment booking and remote medical consultation solutions sector

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Background

Following a complaint by Cegedim Santé and a dawn raid in 2021, the *Autorité* has fined Doctolib €4,665,000 for abusing its dominant position in the markets for online medical appointment booking services (Doctolib Patient) and remote medical consultation technology solutions (Doctolib Téléconsultation), through two breaches consisting respectively of:

- firstly, requiring its subscribers to use only its services, by including exclusivity clauses in its subscription contracts, and requiring Doctolib Téléconsultation subscribers to have a prior subscription to Doctolib Patient;

- secondly, eliminating its main competitor, MonDocteur, through its acquisition on 10 July 2018, with the aim of foreclosing the French market for online medical appointment booking services and consolidating its position in a still emerging market.

After examining all the specifics of the case, the *Autorité* has imposed a fine of €4,615,000 in respect of the exclusivity and tied selling practices.

In relation to the acquisition of MonDocteur, the *Autorité* has – for the first time – applied Article 102 TFEU and Article L. 420-2 of the French Commercial Code (*Code de commerce*) to sanction a merger falling below the national notification thresholds and therefore not subject to an *ex ante* review. However, taking into

account the legal uncertainty that prevailed prior to the *Towercast* judgment of the Court of Justice of the European Union of 16 March 2023, the *Autorité* has imposed a fixed fine of €50,000.

Doctolib has also been ordered to publish a summary of the decision in the paper edition and on the website of the newspaper *Le Quotidien du Médecin*.

The markets for online medical appointment booking services and remote medical consultation technology solutions

- **The market for online medical appointment booking services**

Online medical appointment booking services, such as the "Doctolib Patient" service launched in 2013, are designed for healthcare professionals to manage their medical diaries online, with patients able to view availability and book appointments directly. The systems include automated appointment confirmation and reminder functions. Accessible via websites or mobile applications, patients can search for a healthcare professional using different criteria, then book an in-person or remote consultation.

The market for online medical appointment booking services is therefore two-sided, bringing together healthcare professionals and patients. The interaction between the two groups generates network effects, as patients are attracted to platforms offering a wide choice of healthcare professionals, and healthcare professionals tend to prefer platforms used by a large number of patients.

The market has expanded significantly since the health crisis, when the French government entrusted certain online medical appointment booking platforms (Doctolib, Maiia and KelDoc) with the management of online appointments during the Covid-19 vaccination campaign in 2021.

- **The market for remote medical consultation technology solutions**

Remote consultation services, such as the "Doctolib Téléconsultation" service launched in 2019, provide healthcare professionals and their patients with a secure video transmission interface, which meets the requirements of the French Public Health Code (*Code de la santé publique*), for remote medical procedures. Since the start of the health crisis in March 2020, the use of remote consultation services has hugely increased.

Doctolib has a dominant position in the French markets for online medical appointment booking services and remote medical consultation technology solutions

- **Doctolib's dominant position in the French market for online medical appointment booking services**

Given its market share, its competitors' much smaller market shares and the changes in their respective shares, together with the barriers to market entry and the absence of countervailing purchasing power, Doctolib has held a dominant position in the French market for online medical appointment booking services since at least 2017.

Its market share, in terms of both the number of customers of online medical appointment booking services or the turnover generated by those services, was consistently above 50% between 2017 and 2022, and in some years exceeded 90%.

- **Doctolib's dominant position in the French market for remote medical consultation technology solutions**

Since entering the market, Doctolib's market share, in terms of both the number of customers of remote medical consultation technology solutions or the number of remote consultations performed using those solutions, has exceeded 40%. Again, given the barriers to market entry and the absence of countervailing purchasing power, Doctolib has held a dominant position in the French market for remote medical consultation technology solutions since 2019.

Doctolib abused its dominant position by combining exclusivity and tied selling practices

Doctolib deliberately implemented several anticompetitive practices, together constituting a single infraction, as part of an overall, structured and coherent anticompetitive strategy aimed at foreclosing the markets concerned and eliminating competitors.

- **Exclusivity clauses in subscription contracts**

Until September 2023, Doctolib included an exclusivity clause in its subscription contracts with healthcare professionals, combined with a so-called "anti-allocation" clause under which Doctolib could suspend or terminate the contract. The two clauses prohibited or discouraged healthcare professionals from using competing medical appointment booking services or remote consultation solutions.

Numerous internal documents corroborate that Doctolib wanted to impose exclusivity on healthcare professionals, with management declaring that Doctolib should become "*an essential, strategic interface between doctor and patient, in order to lock in both parties*".

In order – in its own words – to "*leave no practice open to competition*" and thus eliminate its competitors, Doctolib deliberately retained the exclusivity clause in its contracts, despite its legal department warning the clause "*is illegal under competition law*". As a result, despite the legal department advising the clause

should be deleted – "*I really strongly insist on deleting* [the clause]" –, the CEO of Doctolib decided to retain the clause, arguing that "*strategically, we should keep* [the clause]".

The *Autorité* found the clause restricted healthcare professionals' choice, as Doctolib – on the pretext of technical or operational difficulties – required professionals that already subscribed to a competing service to cancel that subscription before subscribing to Doctolib Patient.

The clause also hindered the development of competing operators, particularly smaller ones with limited resources, but also those backed by incumbent practice management software supplier groups. Some operators, such as Solocal and Qare, stopped developing their services or even abandoned the idea of introducing such a service.

- **Obligation for healthcare professionals to subscribe to Doctolib Patient to use Doctolib Téléconsultation**

From its launch in 2019, Doctolib Téléconsultation subscription contracts required a prior subscription to Doctolib Patient to access the service. Healthcare professionals were therefore obliged to pay for both services cumulatively.

Doctolib actively implemented the practice commercially, requiring customers of other appointment booking services or remote consultation solutions to first install Doctolib Patient: "*If a practitioner is a customer of a competing remote consultation solution but not yet of the Doctolib diary, first the diary has to be installed, so that 30 days later the remote consultation solution can be installed*". The effect of the practice was to increase the number of Doctolib Patient and strengthen Doctolib's dominant position in the French market for online medical appointment booking services. By linking the two services and requiring a prior subscription to Doctolib Patient to use Doctolib Téléconsultation, customers had no choice but to use the Doctolib service, to the detriment of competing online appointment booking services.

Doctolib acquired MonDocteur, its main competitor, to foreclose the French market for online medical appointment booking services

In July 2018, Doctolib acquired MonDocteur, described in internal documents as "*competitor #1*". The acquisition was not examined under merger control, as the transaction was below the notification thresholds that trigger an *ex ante* review by competition authorities. The *Autorité* therefore examined the merger under the *Towercast* case law of the Court of Justice of the European Union of 16 March 2023 (C-449/21).

In its judgment, the Court of Justice considered that a merger not notified under European or national merger control could still constitute an abuse of dominant position within the meaning of Article 102 TFEU and Article L. 420-2 of the French Commercial Code (*Code de commerce*). However, the Court clarified that merely finding that a company's position has been strengthened is not in itself sufficient to establish abuse in a merger, and that it must be demonstrated that the degree of domination thus reached would substantially impede competition, i.e. that only companies whose behaviour depends on the dominant company would remain in the market.

In the case at hand, MonDocteur was acquired in order to eliminate the competition and foreclose the market. The acquisition enabled Doctolib to consolidate its market power in the French market for medical appointment booking services, while eliminating its main competitor. Internal documents confirm a desire to *"kill the product"* and indicate that for Doctolib "*the creation of value [...] is not the addition of [MonDocteur] but its disappearance as a competitor".* A document commissioned by Doctolib states that, following the acquisition of MonDocteur, *"Doctolib will operate without any competition in France".*

As a result of the transaction, Doctolib gained 10,000 new healthcare professionals and significantly and sustainably increased its market share. In addition, several internal documents seized during the raids show that Doctolib saw the acquisition as a means of "*reducing pricing pressure*" and a lever for "

increasing its prices by 10 to 20%". Indeed, Doctolib increased its prices several times following the transaction. The *Autorité* found the increases were higher than initially planned (by an additional 3 percentage points), without any loss of customers or slowdown in the company's growth, despite competing platforms charging lower prices.

In view of the evidence, the *Autorité* considered the merger constituted an abuse of dominant position contrary to Article 102 TFEU and Article L. 420-2 of the French Commercial Code.

The *Autorité* has imposed a total fine of €4,665,000

The practices implemented by Doctolib had the effect, at least potentially, and regardless of the company's own merits, which are not disputed, of eliminating competitors from the markets concerned.

On the one hand, the *Autorité* considers the two practices of exclusivity and tied selling constituted a single, complex and continuous infringement by Doctolib, forming an overall anticompetitive strategy aimed at foreclosing the market and eliminating its competitors. The *Autorité* has imposed a fine of €4,615,000 in this respect.

On the other hand, Doctolib acquired MonDocteur with the sole aim of eliminating its main competitor and foreclosing the market. For the first time, the *Autorité* has sanctioned a company for a predatory acquisition based on the *Towercast* judgment of the Court of Justice of the European Union of 16 March 2023. However, the *Autorité* notes the acquisition predated the *Towercast* judgment, which clarified the case law by reaffirming the scope of the *Continental Can* judgment of 21 February 1973, applying the rules on abuse of dominant position to mergers. In view of the legal uncertainty that prevailed prior to the *Towercast* judgment, the *Autorité* has imposed a fine of €50,000 for this practice.

Lastly, the *Autorité* has ordered Doctolib to publish a summary of the decision in the paper edition and on the website of the newspaper *Le Quotidien du Médecin*.

DECISION 25-D-06 OF 6 NOVEMBER 2025

regarding practices implemented in the online medical appointment booking and remote medical consultation solutions sector

See the full text of the decision (in French)

Presentation slides
See the press conference slides

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