28 September 2009: Networks (dentists, opticians and hearing aid practitioners) approved by supplementary health institutions

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**The *Autorité de la concurrence* stipulates the conditions under which the development
of networks of approved health professions can be favorable
to competition and in the interests of patients**

> Version française

After a referral by the French Minister for the economy, industry and employment (*Ministre de l'Economie, de l'Industrie et de l'Emploi*) requesting an opinion on the possible risks and benefits to competition from the development of health networks approved by the supplementary health insurance institutions (OCAM), the *Autorité de la concurrence* is now providing its opinion and publishing it on its Internet site www.autoritedelaconcurrence.fr.

Increasing number of partnerships between OCAMs and health professionals

Currently, many OCAMs have established partnerships - directly or through third party companies serving as platforms (such as Santéclair for AGF or Itélis for Axa) - with healthcare professionals.

These partnerships are based on a combination of reciprocal commitments with regard to services not subject to price regulation:

• the healthcare professionals undertake to provide a certain quality of services to insured parties, to implement the third party payer system and to apply a certain degree of price moderation;

• in exchange, the insured parties of the OCAM in question are directed to healthcare professionals that are network members, thereby ensuring a regular clientele flow.

The number of involved healthcare professionals varies according to the networks and professions in question. For example, the MGEN has 1,600 affiliated opticians (out of a total of approximately 11,000) and 25,600 dentists (out of a total of approximately 36,000 in private practice). Santéclair has approximately 1,350 affiliated opticians, 3,200 dentists, 600 pharmacists (out of a total of 28,000 registered pharmacists) and around 100 hearing aid practitioners (out of a total of approximately 2,250 including 824 in private practice). Itélis currently has approximately 1,500 opticians and 3,300 dentists and has signed agreements with 3 networks of hearing aid practitioners. Groupama has nearly 1,500 opticians and 3,500 dental surgeons.

The Autorité is not against the principle of a numerus clausus for access to these networks, but it recommends the application of transparent, objective and non-discriminatory admission criteria

There are two types of networks, open and closed. **Open networks** take in any healthcare professional who makes a request to the OCAMs and who meets the contractually defined conditions (prices, quality and range of products, etc.). **So-called "closed" networks** refrain the access to a limited number of professionals per geographical zone (numerus clausus). The only currently existing closed networks are those of opticians, who are in fierce competition to join the existing networks.

The agreements signed with network managers are likely to constitute a basis for practices that have as their objective, or their effect, to exclude certain professionals from the market. As such, the *Autorité de la concurrence* considers that heightened vigilance is necessary with regard to the guarantees that serve

to verify that the process for selection of healthcare professionals relies on merit-based competition. Moreover, the Autorité considers that the duration of the agreements should be limited (three or four years) in order to provide the market with sufficient fluidity. It also recommends clarification of the access conditions for newly established healthcare professionals.

While the risk of homogenization of the rates applied within a given network cannot be excluded, the development of networks of healthcare professionals approved by the OCAMs appears to be rather beneficial to competition

The markets for dental and optical care are characterized by considerable information asymmetry to the detriment of consumers, which is heightened by the involvement of insurance. Indeed, particularly with regard to significant supplementary reimbursements, this sometimes leads the insured parties to be relatively indifferent to the prices that are applied, and to a convergence between the rates charged by professionals and the maximum amount of the benefits provided by the OCAMs. Indirectly, an increase of the level of supplementary insurance premiums can result.

The set-up of networks of approved professionals is exactly what will be required in order to positively change this system. Focusing on de facto regulation of the offer and based on shared interests between the supplementary institution - which is seeking to control its costs - and the insured parties - who wish to have to pay out nothing or as little as possible and who want the lowest possible insurance premiums - it requires the professionals who wish to be selected to undertake to comply with price moderation commitments. Therefore, if there is any growing uniformity of the rates, it is quite likely that this will occur on a significantly lower level than would be the case in the absence of any contractualization mechanism.

Moreover, the development of the approval system is likely to foster a more competitive functioning of the market, insofar as professionals not approved by the OCAMs will be encouraged to offer either additional services (such as deferred payment terms), or a higher quality of service, or even attractive prices

in order to continue attracting insured persons.

> To consult the full text of opinion 09-A-46 relative to the effects of competition on the development of approved healthcare networks