

23rd March 2009: Payment timeframes

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The *Autorité de la concurrence* issues two new favourable opinions concerning derogating agreements in the building and civil engineering materials-products and sanitary-heating-electrical equipment sectors

> *Version française* 

Following the first three favourable opinions concerning the toy, DIY and watch making-jewellery sector, (see opinions [09-A-02](#), [09-A-03](#) and [09-A-04](#)), the *Autorité de la concurrence* has issued two new favourable opinions on inter-branch agreements granting dispensation from the new rules on payment timeframes, introduced by the "LME" law on the modernization of the economy (1) .

The *Autorité* took the view that there were objective and specific economic reasons for giving companies in the building and civil engineering materials-products and sanitary-heating-electrical equipment sectors more time to comply with the new provisions. It also recommended extending the inter-branch agreement to all companies in the two sectors concerned, subject to certain conditions.

The *Autorité* issues two favourable opinions, taking into account the specific characteristics of the sectors under consideration

The agreements concerned cover the entire chain (production, trading and installation), and a very large number of professional organizations have signed up to them (over 60 in the building and civil engineering sector, and almost 30 in the sanitary-heating-electrical equipment sector, as of the beginning of February).

The *Autorité* took the view that these sectors have specific features which justify

the two derogating agreements. The objective reasons include the long payment periods, high stock levels, the position occupied by SMEs in these sectors, and the fact that client firms in the construction or finishings industries are not subject to the legal payment timeframe established by the LME law.

The *Autorité* indicated that it was in favour of extending them to cover all companies in the two sectors concerned, to avoid any distortion of competition.

The conditions required by the *Autorité*

The *Autorité* recommended that the transition calendars in both agreements, which partly concerned the same companies, should be aligned.

It also expressed serious reservations about the monitoring bodies provided for in the agreement covering the sanitary/heating/electrical equipment sector. Besides the fact that a "payment timeframe observatory" is already tasked with carrying out this monitoring, the *Autorité* is in principle reluctant to see a regulatory text used to facilitate the creation of a consultation body, which brings together companies operating at different levels in the same chain, and whose purpose is to exchange information concerning aspects of commercial relations such as payment timeframes.

The *Autorité de la concurrence* will soon be examining other agreements that have been submitted to it, notably in the following sectors: stationery, books, tyres, canned foods, pets, optional prescription medicines not reimbursed by social security, sailing, amateur gardening professionals, cycles.

(1) The LME law reduced payment timeframes to either 45 days end of month, or simply 60 days following the invoice issue date, in an attempt to ease financial pressure on businesses, particularly SMEs. To give certain economic sectors time to adapt to the change, the LME law allowed for inter-branch agreements to be signed, granting specific sectors special dispensation from the legal payment timeframes for a transitional period of up to three years. The *Autorité de la concurrence* is required to give its opinion on these sector-specific dispensations, due to the potential risk that they may distort competition.

> For more details see the full text of opinions 09-A-06 and 09-A-07