

15 April 2009: Payment timeframes in the book sector

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The Autorité de la concurrence has just issued a favorable opinion with regard to independent bookstores, specialized department stores and distance sales. However, it refrained from expressing itself regarding generalist mass retail distribution.

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After a referral from the French Minister of economy, industry and employment (*Ministre de l'économie, de l'industrie et de l'emploi*) requesting an opinion relative to three derogating agreements in the book sector, pursuant to article 21 III of the 4 August 2008 law on the modernization of the economy (LME)(1), the *Autorité de la concurrence* has just issued its opinion and published it on its Internet site.

The three agreements in question

The signatories of the first agreement are the *Syndicat national de l'édition* (SNE), the *Syndicat de la librairie française* (SLF), the *Syndicat des distributeurs de loisirs culturels* (SDLC) and the *Union nationale de l'imprimerie et de la communication graphique* (UNIC). This first agreement includes most printers, the main publishers and distributors of books, most independent bookstores and department stores specializing in cultural products.

The second agreement was signed by the Fédération du e-commerce et de la vente à distance (FEVAD), the SNE and the UNIC.

The third agreement was signed between the Fédération des entreprises du commerce et de la distribution (FCD), the SNE and the UNIC.

The *Autorité de la concurrence* has issued an opinion in favour of the validation of the first two agreements regarding bookstores and specialized department stores, on the one hand, and distance sales on the other hand

While issuing a favorable opinion regarding the first two agreements, the Autorité nevertheless put forward reservations regarding the proposed calendars, while proposing the implementation of two calendars, one relative to standard payment timeframes and the other relative to specific situations (notably the supply of schoolbooks and the opening of small bookstores with the establishment of the necessary fund).

To ensure a progressive and realistic return to the legal payment timeframe in the industry, the Autorité recommends including a clause of the following type in each calendar: "*Payment timeframes will be reduced by x days per year as of 1st January 2009, for all customers having a payment timeframe greater than 45 days from month end or 60 days net in 2008*". It also recommends anticipating and preparing a calendar specific to payment timeframes for the relations between printers and publishers, and that the agreement should be extended to all operators whose activities are included within the professional organisations that signed the agreement.

With regard to generalist mass retail distribution (3rd agreement), the *Autorité* wishes to see a more in-depth examination of the quantified elements that were provided to it

With regard to the agreement signed with the FCD, the *Autorité de la concurrence* considered that it could not issue a decision relative to determining if there are specific and objective economic reasons specific to the distribution of books by generalist mass retail distribution channels that could justify an exception. While the figures contained in the agreement indicate high levels for average payment timeframes and stock rotations, these would have to be confirmed by quantified data, since they appear to be inconsistent with the average rotation of bookstores and specialized department stores.

The *Autorité* therefore recommends to the Minister that it should seek, from the FCD, supplementary elements that could confirm the high levels of stocks and advanced supplier credit, which could for example consist in certifications by the statutory auditors regarding a sample of businesses.

In any event, the Autorité believes that excluding the generalist mass retail distribution from the agreements entails no risk for competition in view of the

specific nature of the book market within hypermarkets.

(1) The LME reduced the payment timeframes to 45 days from month end, or 60 days as of the issuing of the invoice, in order to ease the financial constraints that normally weigh on SMEs. To allow certain economic sectors some time to adapt, it provided the possibility for the setting, by means of an inter-professional agreement, of timeframes that would depart from the legal payment timeframe for a transition period of three years at most. The opinion of the *Autorité de la concurrence* relative to these sector specific dispensations is then mandatory, in view of the potential risks of distorting competition.