

12 January 2010: Should the "Lang law" be extended to digital books ?

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The Autorité de la concurrence believes that observing this market, still in its infancy, is a necessary prerequisite

>Version française



The Minister for Culture and Communication has sought an opinion from the *Autorité de la concurrence* relative to various measures leading to the implementation of a single price system for digital books, along the lines of the system implemented with the 1981 "*Lang law*" on printed books.

Given that the digital book market is still in the earliest stages of its infancy, the Autorité is of the opinion that it would be too soon to set up a framework that could prove to be too rigid or too quickly outdated, and that would in the end serve only to slow the market's development.

The objectives of the single price for printed book cannot entirely be transposed to digital books

The adoption of the so-called "*Lang law*" of 10 August 1981, intended to ensure that each paper book had a single price set by the publisher, had three objectives: equal access of citizens to books, maintaining a very dense distribution network, and upholding pluralism in the areas of creation and publishing. In view of the specific characteristics of digital books, these aims do not seem to be entirely transposable. Firstly, the nationwide density of the library of bookstores seemingly does not constitute a factor in the accessibility of consumers to digital books, given that they are intended to be made available

online. Secondly, the diversity of creation and its promotion to the public would naturally appear to be encouraged in a digital world, for at least two reasons: lower costs for the publication, translation and dissemination of works, and the "*long tail*" phenomenon, which promotes the coexistence of a considerable number of references and, at times, the emergence of niche markets.

Still in its infancy, the market must develop before any regulation can be adopted

While it may seem legitimate to attempt to limit the risks that the market might be completely preempted by one or more pioneering operators, who may tend to concentrate their efforts on books for the general public to the detriment of books intended for a smaller audience, the market's initial developments seem to indicate that this risk is low. It is for this reason that the *Autorité de la concurrence* recommends an observation period, during which time no specific measure would be defined for digital books, and during which various models could cohabitate (price setting by the retailer or by the publisher, open or closed technical system for downloading books). A period of one to two years would allow to assess the various models and, at the end of this observation period, to obtain feedback before considering how to proceed.

Various contractual models can be considered

In its opinion, the *Autorité* explores various contractual models that could govern relations between publishers and retailers (mandate contract, broker contract) and assesses their compatibility with competition rules.

The full text of opinion 09-A-56 of 18 December 2009, relative to the Minister for Culture and Communication's request for an opinion regarding digital books, is available on the Internet site of the *Autorité de la concurrence*:

www.autoritedelaconcurrence.fr