

12 March 2012: Dental prostheses

Published on March 12, 2012

The Autorité recommends a strengthening of patient-led competition amongst dental surgeons

It also calls for more price transparency from dental surgeons in order that patients are able to benefit from the effects of competition between prosthetists

> *Version française* 

The Autorité de la concurrence publishes today an opinion given to the French national association of dental prostheses manufacturers (Syndicat national des fabricants de prothèses dentaires, or SNFPD), which consulted the Autorité for an opinion on 15 September 2011 regarding the effects on competition of the exclusive sale by dental surgeons of dental prostheses.

The SNFPD would like to see the introduction of a direct commercial relationship between prosthetists and patients, whereas currently the prosthetist becomes involved exclusively at the request of the dental surgeon on behalf of the patient.

The Autorité is not questioning the monopoly over the practice of dentistry

In accordance with its decision-marking practice¹, the Autorité recalls that on the grounds of competition law it cannot object to professional regulation (French public health code, Code de la santé publique) or to the Cour de cassation's case-law regarding such regulation, both of which establish the monopoly over dentistry (exercised by 40,930 dental surgeons) and organise the related prosthesis industry (3,950 laboratories in France with 17,550 employees).

The market can therefore be broken down into an upstream market of prostheses manufactured by prosthetists on behalf of dental surgeons and a downstream market of prosthesis procedures performed by dental surgeons on their patients.

Inadequate competitive dynamics within the downstream market, to the detriment of patient interests

In the upstream market, dental surgeons place prosthetics laboratories in competition against one another in terms of the pricing and quality of dental prostheses. However, such competitive dynamics do not spread to the downstream market. The pronounced asymmetry of information relating to the range of available treatment, and the inadequate transparency of pricing, limits competition to the detriment of patients, many of whom (around 10%) cancel necessary treatment because of the cost.

Regarding the cost of prosthetic treatment, the Autorité points out in particular that such treatments correspond to the greater part of the fees (62%) charged by dental surgeons, yet represent only a minority element (30%) in terms of their overall working time. This distortion means higher fees for prosthetic treatment in France compared to the fees charged in other EU countries (see table below).

Table: ***Prosthetic treatment costs***

<i>Prosthesis</i>	Germany	France	Denmark	Netherlands
Full removable prosthesis	100	251	139	77
Ceramic crown	100	199	178	100
3-part metal/resin bridge	100	278	264	144
3-part ceramic/metal bridge	100	177	158	81

Source: French court of auditors (Cour des comptes), 2010 – 1998 survey comparing prices across Europe of certain prosthetic procedures

The Autorité recommends a strengthening of competition in order to achieve

more acceptable price levels for the community

The Autorité, which sets out in its opinion that the pricing system has contributed to the restriction of demand for prosthetic treatment, proposes changes in order to encourage market mechanisms that are likely to lead to pricing which is more acceptable for the community.

Strengthen patient-led competition amongst dental surgeons

The Autorité recommends that patient-led competition amongst dental surgeons is strengthened, notably by reducing the asymmetry of information relating to the range of available treatment and by promoting price breakdown transparency:

• Improved patient access to information regarding the cost of treatment

The Autorité invites the French national health insurance fund (Caisse nationale d'assurance maladie, or CNAM) to improve and enhance the information contained in their Ameli database (website www.ameli-direct.fr), notably by adding procedures not currently in the nomenclature (implants and peridontics) and by providing a detailed description of these procedures. It also invites CNAM to organise a public communications campaign in order to encourage patients to compare prosthetic treatment prices by consulting this database.

• The implementation of the standard quote format as set out under the law of 10 August 2011

The Autorité recommends the effective and monitored introduction of the standard quote format as per law no. 2011-940 of 10 August 2011 (so-called Fourcade Law), which separates the prosthesis selling price from the price of the treatment.

The Autorité especially recommends that the prosthesis should be costed by the dental surgeon close to the level of its purchase price (*see § 124 to 130 of the opinion*), in order that patients may benefit from the effects of competition that exist in the upstream prosthesis manufacturing market.

Strengthen the contractual regulation of the dental surgeon monopoly through a review of the pricing structure

The current pricing structure is characterised by regulated prices for restorative care, which does not correspond to the economic reality, and which is compensated for by pricing freedom in the area of prosthetic treatment.

Without questioning the principle of the freedom to set fees for prosthetic treatment, the Autorité considers that the state health insurance body and supplementary health insurance organisations responsible for negotiating the new national dental agreement could, in return for a review of restorative treatment pricing, obtain from the profession commitments regarding pricing for prosthetic procedures, linked to a mechanism for limiting fees in excess of the insurance base.

This approach mirrors that of the French court of auditors (Cour des comptes) which recommended in its report of 2010 *"to control freedom of prosthesis pricing in return for the price review of certain restorative treatment within the context of national or special negotiations"*.

Furthermore, following on from a previous opinion², the Autorité reaffirms the pro-competition character of approved healthcare networks (MGEN, Santéclair, Itelis, Groupama, etc.) and the positive effect of this contractual regulation of the dental surgeons' monopoly.

(1) Conseil de la concurrence decisions nos. 89-D-36 relating to practices observed in the dental prosthesis market and 03-D-52 relating to practices implemented by the dental council for the département of Haute Savoie (Conseil départemental de l'Ordre des chirurgiens-dentistes de la Haute-Savoie) and the French national confederation of dental unions (Confédération nationale des syndicats dentaires)

(2) Opinion no. 09-A-46 of 9 September 2009 relating to the effects on competition of the development of approved healthcare networks

> Full text of Opinion No 12-A-06 relating to the effects on competition of the exclusivity of sale of dental prostheses by dental surgeons

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