

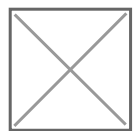
3 January 2013: Distribution of the magazine press by single issue / historical additional costs

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The Autorité de la concurrence has published an opinion on the inclusion of so-called 'historical' additional costs in the equalisation system between press distribution services.

The Autorité is not in favour of the inclusion of these additional costs in the equalisation system, due to their anti-competitive effects.

> **Version française**



Following information that has appeared in the press and in the interest of transparency, the Autorité de la concurrence makes public the opinion requested by the Press Distribution Regulatory Authority (*Autorité de régulation de la distribution de la presse* – ARDP) and the High Council of Press Distributors (*Conseil supérieur des messageries de presse* – CSMP), on the inclusion of so-called 'historical' additional costs in the equalisation system between press distribution services.

Press Distributors Presstalis and MLP

Presstalis distributes both the national daily press and the magazine press. MLP, however, only distributes magazines. As the distribution of the national daily press is structurally loss-making, Presstalis has, in the past, partially compensated the losses incurred in the distribution of the national daily press with revenue generated from the magazine press. As MLP does not distribute the national daily press, its rates for the magazine press are on the whole more attractive than the rates of Presstalis.

Confronted with financial problems within the sector and those of Presstalis in particular, several magazine publishers have decided to leave Presstalis in favour of MLP, thus aggravating further Presstalis' financial situation.

Context of the referral to the Autorité de la concurrence: recent decisions by the CSMP and the ARDP regarding tariff equalisation

The principle of a contribution by magazines to the distribution of the daily press was proposed for the first time by the High Council of Press Distributors (CSMP) in its reform proposals, known as the *Lasserre Report*¹, which was submitted to the President of the Autorité de la concurrence at the General Assembly of the press. In accordance with the report's recommendations, by way of Decision no. 2011-03 of 22 December 2011, the CSMP opted for an inter-co-operative equalisation system aimed at "*sharing the efforts required to ensure that the distribution costs of daily publications providing political and general information are covered between all press companies that are members of co-operatives, in an objective, transparent and non-discriminatory manner*". The financial equalisation between co-operatives therefore results in MLP's contribution, in accordance with the principle of solidarity set out by the Bichet Law, to the additional costs linked to the distribution of the daily press, which are currently borne by Presstalis alone.

The equalisation system introduced by the CSMP (Decision n° 2012-05) and made enforceable by the Press Distribution Regulatory Authority (ARDP) (ARDP Ruling n° 2012-07) only covers specific additional costs linked to the distribution of the daily press, such as night or Sunday shifts, and evening papers sales. Conversely, it excludes so-called 'historical' additional costs linked to salaries and administrative or logistical bureaucracy, as well as additional costs with no economic justification.

The CSMP and the ARDP decided to call upon the Autorité de la concurrence to examine the possibility of including the share of Presstalis' historical additional costs, likely to be directly linked to its obligation to distribute daily publications, in the charges base used for the equalisation.

The inclusion of the historical additional costs in the equalisation system would have anti-competitive effects

For a company's additional costs (such as those debated in this opinion request, i.e. additional salary costs and potential costs related to management inefficiency) to be defrayed by its main competitor would have very negative consequences vis-à-vis the objectives sought by competition law, i.e. to make markets more dynamic and encourage companies to be more efficient.

- For the company receiving the assistance, the defraying of its additional salary and management costs, whether justified or not, would not be an incentive for efficiency. On the contrary, such a move would encourage it to maintain its current situation and to postpone the required reforms.
- The assisting company would see its expenses rise considerably for reasons beyond its control. Firstly, it might be forced to close if the expenses were too high, and secondly it might be encouraged to leave a market in which the competition conditions did not allow it to run its business properly.
- Finally, the signal sent to the market and generally speaking to former monopolists would be detrimental as it would provide companies with no incentive to reduce their operating costs, given that the new operators would be paying for them. Such a measure would result in artificially increasing entry barriers and in reducing incentives for new entrants to the market.

To conclude, the Autorité de la concurrence recommends that the inclusion of so-called 'historical' additional costs in the equalisation system between press co-operatives should not be based on any justification of economic efficiency to be weighted against the indisputable anti-competitive effects that it would have on distribution services.

(1) The Lasserre report dated 9 July 2009 on the 'Proposals for Reform by the High Council of Press Distributors' is available online at:

<http://www.dgmic.culture.gouv.fr/IMG/pdf/Propositions-Bruno-Lasserre.pdf>

> Full text of Opinion 12-A-25 of 21 December 2012 on the inclusion of so-called 'historical' additional costs in the equalisation system between press distribution co-operatives.

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