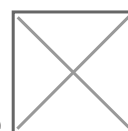


25 February 2013: Distribution of medicinal products

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As the medicines sector is experiencing significant regulatory and economic changes, the Autorité de la concurrence has launched a sector inquiry to analyse how competition operates throughout the medicinal products distribution chain.

> **Version française**



The support of the authorities to generic medicines and the opening up of online sales for medicinal products stand among the factors that ought to favour an increase in competition in the medicines distribution sector.

It is in this context that the Autorité de la concurrence has decided to launch a sector inquiry to check that these new opportunities benefit everyone, in the form of price reductions, increased services and innovation. For this purpose, it will inquire into the entire distribution chain for medicines – pharmaceutical laboratories, wholesale distributors and pharmacists.

Points studied

From the point of view of pharmaceutical laboratories

- *The pricing policy operated by the laboratories*

Even though the price of medicines reimbursed by Social Security is regulated, prices are also fixed for medicines that are not reimbursed. In this regard, the Autorité will study the relationship between pharmaceutical laboratories on the one hand and wholesale distributors and dispensing pharmacists on the other, in

terms of price-setting for medicinal products, rebates, etc.

- *The development of generic medicines*

The sale of generic medicines, which represents a substantial source of savings for public accounts, ought to increase in the coming years in view of the numerous patents that will be entering the public domain within two years. The Autorité will issue recommendations to the industry in order to encourage the development of generics as a competition factor.

From the point of view of wholesale distributors

The Autorité will also focus on the operations of wholesale distributors, who act as middlemen between the laboratories and the pharmacies in the distribution of medicines. Wholesale distributors are subject to regulation of profits and to public service obligations – especially with respect to stocks – that are currently causing them economic difficulties. The Autorité will analyse their pricing and trade relations with pharmaceutical laboratories and dispensing chemists. The issue of direct sales from the laboratories to the pharmacies will be carefully studied. The Autorité will pay special attention to the competitive pressure that the wholesale distributors may exert, as importers or exporters of medicines, on the distribution of medicinal products.

From the point of view of dispensing chemists

- *The role of chemists in the distribution of medicinal products*

The opinion issued by the Autorité will dwell in particular on the role played by dispensing chemists in the distribution of generic medicinal products and it will measure the intensity of competition on medicines for which there is no reimbursement.

- *Online sale of medicinal products*

Finally, it will review online sales, on which the Autorité de la concurrence issued an opinion on 13 December last. In this opinion, the Autorité issued reservations concerning the wording of the draft order transposing into French law the European directive authorising the online sales of medicines. The Autorité found

that the draft restricted online sales to medicinal products in self-service. The Autorité stressed that this limitation would introduce an additional restriction, unjustified with respect to European Union law, and recommended that the order allow chemists to market on the Internet any non-prescription medicine, while leaving the way open for health authorities to ban the online selling of certain medicinal products on a case-by-case basis, for objective public health reasons. This recommendation had not been followed in the text published on 19 December 2012 but on 14 February last, the *Conseil d'État*, supporting the Autorité's analysis, issued an interim order suspending the implementation of the provisions introduced by the order, underlining the existence of serious doubt as to their legality with respect to the European texts.

In this context, the Autorité de la concurrence intends to research the conditions necessary to enable everyone to get the most benefit from the developments expected from online sales.

Public consultation in the summer

After an initial thorough investigation, the Autorité de la concurrence will submit the first conclusions of its investigation in the summer. All those involved in the sector will be asked for their reactions and observations before the Autorité delivers its final opinion, which may be accompanied by recommendations, at the end of the year.

> Full text of Decision 13-SOA-01 of 25 February 2013 relating to the self-referral for an opinion on the pharmaceutical distribution sector

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Within the framework of this sector inquiry, the Autorité de la concurrence launched a public consultation on 10 July and invites all interested parties to comment on the developments and conclusions laid out in the public consultation document.

> See the document issued for public consultation