The Autorité de la concurrence has issued a favourable opinion on the draft decrees regulating fuel prices in the Départements d'Outre Mer (DOM)

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It believes that this will improve the transparency of the industry's operation and the conditions of its regulation.

A referral was made to the Autorité de la concurrence by the Minister of the Economy with regard to draft decrees regulating the price of fuel in the overseas départements (Guadeloupe, Martinique, Guyana, Réunion, and Mayotte).

Greater transparency in the mechanism for the regulation of prices and margins

• Regulation of imported oil prices

Given the existence of fuel supply monopolies in the DOM, the wholesale and retail prices of fuel have been regulated by decrees since 1988.

The 2013 draft decrees which should come into force on 1 January 2014, put forward a more transparent method of calculating fuel price. It is expected that the maximum price of fuel imports will henceforth be calculated on the basis of the sole reference quotations for the actual supply area (Platt's Index) and the average rate of the dollar, excluding any other cost element which cannot be duly justified.
This change marks a significant improvement in the price regulation mechanism.

• The margins

As regards wholesale and retail margins on imported oil, the 2013 draft decrees do not introduce any change but are aimed at favouring enhanced transparency. Indeed, wholesalers will have the obligation to provide State authorities with documents providing evidence of the reality of the costs borne, in particular transport costs. The retail margin must, furthermore, correspond to fuel distribution costs at service stations.
This bolstering of the transparency of margins constitutes a notable improvement.

By contrast, the Autorité de la concurrence has not been able to give its opinion on the details of the regulation of margins on refining and storage activities, as the inter-ministerial orders regulating these prices have not been submitted to the Autorité de la concurrence for an opinion.

Companies carrying out both monopoly activities and other competitive activities will be obliged to separate their accounts

The draft decrees oblige the companies in question, which are simultaneously in a monopoly position with regard to their fuel storage activity and in competition on the distribution market, to separate their activities in their accounts.

This accounts separation, which will apply to the Société Réunionnaise des Produits Pétroliers (SRPP)[1] , will ensure that its monopoly activity (storage) does not give it an undue competitive advantage, as a result of cross-subsidisation, on the retail fuel sale market.

The Autorité can only be in favour of this change which it has sought since 2009. In its opinion on fuel prices in the DOM[2] , it recommended accounting separation or subsidiarisation of SRPP's storage activities. This subsidiarisation has not yet been implemented despite undertakings on the part of its shareholders.

Cost-oriented prices for jet fuel

Finally, the decree lays down the obligation for undertakings with essential facilities for the storage of non-regulated fuel (jet fuel) to offer their clients cost-oriented prices. The Autorité considers this to be a useful provision that will make for an improvement in the operation of wholesale markets, a sector in which it has issued several antitrust decisions (see decisions 93-D-42 and 08-D-30).

[1] In La Réunion, SRPP stores the fuel and operates service stations. In the Antilles and Guyana, SARA (société anonyme de la raffinerie des Antilles) does not operate the service stations directly. The latter belong to its shareholders that manage them via dedicated subsidiaries. The companies are different and the accounts already separate.

[2] See opinion 09-A-21 and press release of 29 June 2009

> Full text of Opinion Nr 13-A-21 on the draft decrees regulating fuel and liquefied petroleum gas in the overseas départments