

31 July 2014: Ubifrance – Supporting French business for their international development

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Following a referral from a professional organization (the OSCI), the Autorité de la concurrence has delivered an opinion and recommends the adoption of measures in order to avoid the risk of distorting competition to the detriment of private operators

> Version française



The Ubifrance Agency is the French agency for the French business' international development; it is a public industrial and commercial body (EPIC) which draws its 70 % of its resources from public funds.

The task of Ubifrance is to promote development of French companies at the international level by carrying out or coordinating all types of initiatives involving information, training and promotion as well as technical, industrial and commercial cooperation and international volunteering.

The subsidies granted to Ubifrance must be used exclusively for public service activities, otherwise they could distort competition

While, in general, the status of public bodies is, in itself, not an obstacle to their involvement in the market, free and fair competition can nevertheless be distorted when these bodies are benefiting from certain advantages, especially financial, that are not available to their competitors in the market. Indeed, they may find themselves in a position to offer prices that are lower than their costs, to the detriment of private operators (this principle had already been underlined

by the Conseil de la concurrence, particularly in its opinion 08-A-13).

This implies, in particular, that subsidies granted to bodies such as Ubifrance should be allocated exclusively to the public service activities assumed by the organization.

The Autorité de la concurrence recommends the introduction of a analytical cost accounting system for each activity

This involves the introduction of a cost accounting system based on a precise and detailed definition of public service activities and the activities in the competition field exercised by the entities in question. This is the minimum condition for ensuring that public resources are not channeled into competitive business activity.

For certain public bodies, this requirement is a legal obligation. For others, the Autorité also recommends the adoption of a separate cost accounting system, so that, if necessary, proof can be provided that the public subsidies received are used for the purpose for which they were intended, i.e. solely to finance the public service assignments which they are required to assume.

The representatives of Ubifrance and of its supervisory authority have declared to be aware of the need to implement a cost account system of analytical nature and have specified that the research needed for this reform will soon begin.

The Autorité also recommends a structural separation concerning the “labelling” procedure managed by Ubifrance

Free competition may also be distorted when a public body with the status of an economic operator in a market also operates as the manager or regulator in this same market, giving it an advantage over its competitors.

The “labelling” process managed by Ubifrance is designed to support collective action to promote French companies abroad (trade shows, business meetings, etc.) enabling the operators organising them to display the “France label” and receive a subsidy designed to reduce their costs.

This process directly results in a public operator, the Ubifrance agency, deciding whether or not to award subsidies to operators who are its competitors in the international business support sector.

Such a situation is potentially damaging to the free competition and the Autorité considers that it would be preferable that the labeling process was awarded by an administrative entity that was different and separate from Ubifrance.

Finally, the Autorité suggests that measures should be taken so that the partnership between the Banque publique d'investissement (Bpifrance) and Ubifrance does not have negative side-effects for' private enterprises.

The Autorité stresses that there is a risk that companies asking Bpifrance if they can benefit from its "export development loan" will spontaneously refer to Ubifrance for the support services in the hope that their request for a loan is handled as favorably as possible.

It suggests in particular that a rapprochement should take place between Bpifrance and private operators in the sector so that the support services offered by private operators can be offered by Bpifrance in the same way as those of Ubifrance.

> **Opinion no. 14-A-10 dated 31 July 2014 concerning the situation of competition in the business' international support sector**

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The Autorité has also produced two other opinions concerning hospital laundries and business hosting, sectors in which public operators are also involved in competition with private operators.

> Opinion no. 14-A-11 of 31 July 2014 concerning the competition situation in the hospital laundry sector

> Opinion no. 14-A-12 of 31 July 2014 concerning the competition situation in the business hosting sector