21 July 2016 : Liquid fuel backup heating units

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The *Autorité de la concurrence fines* both PVG and Ligne Plus suppliers for anticompetitive agreement on wholesale prices and sharing of customer base (horizontal agreement).

Besides, both suppliers are fined for having set distributors' resale prices to the final consumer and for having ensured their implementation (vertical agreement).
Leroy Merlin distributor is sanctioned on this basis as well.

> Version française 

In brief

The Autorité de la concurrence issues a decision by which it fines three anticompetitive agreements concluded in the liquid fuel backup heating units sector in France (see detailed chart at the bottom of the press release). Both PVG and Ligne Plus, as well as Leroy Merlin are fined a total amount of 9 013 000€.

- The anticompetitive agreement between PVG and Ligne Plus (price and customer sharing)

A first horizontal agreement between the only two suppliers of such heating units, PVG France and Ligne Plus, has taken place from March 2005 to September 2008. It relied, in the first place, on a collusion regarding selling prices on the wholesale market and public resale prices of the first-price products, and, in the second place, on a share of the customer-distributor base between these two suppliers. The two companies abstained from approaching their competitor's distributors and colluded as well on the volume of units supplied for sale concerning first-price and branded products.

- Anticompetitive agreements between PVG, Ligne Plus and their respective distributors

The two other agreements, of vertical nature, have taken place between, on the one hand, PVG France and its distributors –notably Leroy Merlin France- and, on the other hand, Ligne Plus and its distributors, between 2005 and 2008. Practices consisted of a collusion on the setting and the observance of a resale price to the final consumer of first-price and branded heating units.

The pairing of these agreement practices allowed to act both on wholesale and retail prices and led to a hindering of inter and intra-brand competition, as much upstream than downstream. These practices are especially serious in that they prohibited any competition between the only two existing brands and between distributors for a same brand. They have clearly prejudiced consumers and the economy.

PVG and Ligne Plus have not contested the objections notified to them, and thus benefited from a fine reduction.

Liquid fuel heating unit market

Mobile devices are often seen as seasonal products, used as backup heating units and for which price is the most important criteria for consumers. Liquid fuel heating units in France are all imported from South-East Asia. Retailing of these products in France is provided by wholesale-importers who also ensure customer service.
The two main wholesale-importers on the French market are:

- PVG France (79% market share in 2007-2008)
- Ligne Plus (20% market share in 2007-2008)

Liquid fuel mobile heating units are mainly sold to supermarkets and in a larger part to DIY stores.

Following a transmission of an investigation report from the DGCCRF, the Autorité de la concurrence began an investigation at its own initiative in 2010.

The anticompetitive agreement between PVG and Ligne Plus

The entirety of factual elements composed of former PVG France employees' statements, internal emails of PVG France, handwritten notes, Ligne Plus' Head of operations' agenda and email exchanges between the two competitors show that from March 2005 to September 2008, exchanges between PVG France and Ligne Plus were held about the setting of prices for entry-level range devices. These exchanges took place upstream the heating season, which lasts every year from the end of August to the end of December.

Besides, they had signed a non-aggression pact consisting in the sharing of distributors-customer and the commitment not to approach them.

The anticompetitive agreement of PVG and Ligne Plus with their respective distributors

- *PVG and its distributors*

  A lot of information from the case testify that branded and entry-level range products' prices of PVG France have been subject to a communication on recommended selling prices to distributors between 2005 and 2008 and that PVG France has held a surveillance of the distributors' resale prices by means of, in particular, compiling advertising including the products' prices, reminders and communication of recommended prices addressed to the distributors. Some of them have explicitly agreed to its requests and other even solicited PVG France to implement with a firmer hand its pricing policy towards competing sale outlets.
  Concerning Leroy Merlin in particular, numerous direct documentary evidences validate its active participation to the agreement with its supplier PVG France, via notably its purchasing office.

- *Ligne Plus and its distributors*

  In a similar way, Ligne Plus has imparted recommended resale prices for its branded and first-price products. Some distributors have solicited it on the price level it recommended and have also reported « defecting » prices

practiced in competing sale outlets.

Fines

PVG and Ligne Plus have not contested the charges and benefited both from a fine reduction of 16%. Besides, PVG has benefited from a 50% reduction of the incurred fine considering the financial difficulties it had presented.

Finally, the Autorité has raised the fine inflicted on the Leroy Merlin company by 20%, in order for it to be proportionate to the size and power of the Adeo group to which it belongs.

Companies	Final fine (in Euros)
PVG France and PVG International, severally with PVG Distribution B.V., PVG Holding B.V.	4 000 000
Ligne Plus S.A., severally with Essege, SG Holding and Tolefi	4 218 000
Leroy Merlin France, severally with Groupe Adeo	795 000
TOTAL	9 013 000

> For more details on this case, see the full text of decision 16-D17 of 21 July 2016 relating to anticompetitive practices in the liquid fuel backup heating units sector

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