The Autorité de la concurrence publishes a new study on Behavioural remedies in competition law

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In 2018, together with La Documentation française, the Autorité created a new collection, *Les Essentiels*, to further understanding of competition. After an initial study on loyalty rebates (2018), it is publishing a new work in February 2020 on behavioural remedies, which reviews use of the tool in the practice of the *Autorité de la concurrence*.

The publication is now available on the website of the *Autorité de la concurrence* in French and English.

An examination of behavioural commitments

Commitments by which a company agrees to follow specific economic behaviour have become a major instrument in the implementation of competition law. They can make mergers compatible with the maintenance of competition, e.g., by prohibiting exclusive behaviours or by introducing obligations of equal access where competition concerns have been identified for a company.

In the field of anticompetitive practices, the company may also propose commitments, made mandatory by the *Autorité*, which enable it to comply with competition law by responding at times to objections by competitors or suppliers, while avoiding a sanction procedure.

This study has the **dual aim of taking stock of the decision-making practice of the *Autorité de la concurrence* in regard to behavioural commitments, and**

providing material for broader discussion on the subject. The *Autorité* is one of the competition authorities that makes the most use of this tool at the international level, often in an innovative way, to end anticompetitive practices and as part of its task of merger control.

By providing a summary analysis of decision-making practice concerning behavioural commitments, the *Autorité* also aims to provide companies preparing for a merger or procedures related to anticompetitive practices with tools to understand its work. In presenting its method and the objectives it pursues, the *Autorité* seeks to clarify the matter for the companies concerned and all stakeholders.

The study forms part of a broader reflection carried out by the Autorité on the adaptation of its intervention methods and its application of behavioural remedies in case law. The assessment of the decision-making practice of the Autorité in terms of behavioural remedies is notably made by comparing these commitments to structural commitments according to three criteria: the speed of implementation, their irreversible or temporary nature and the difficulties associated with monitoring their execution.

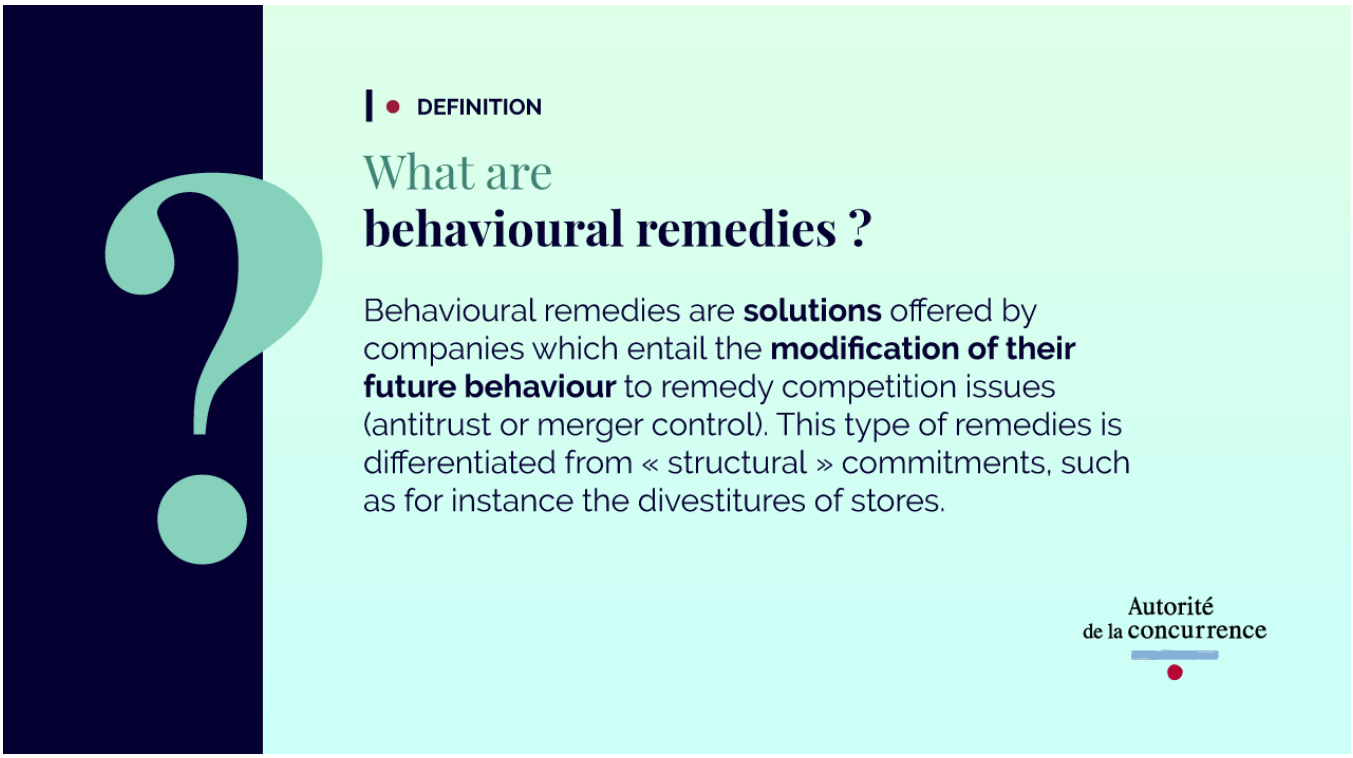
A collection to foster better understanding of competition issues

The *Autorité* offers a collection of topical studies, available in bookshops, for competition law practitioners, economic stakeholders, professors and students in business law, economic law and competition law.

The subjects are either cross-disciplinary, concerning a legal or economic concept or a procedure, or sector-specific.

The objective is to summarise the *Autorité*'s decision-making practice and the case law of the French and European courts of review so that the reader can have an overview of the issues involved.

The first issue examined loyalty rebates. It was published in April 2018 and received the prize for Best Soft Law at the 2018 Antitrust Writing Awards.







“Behavioural commitments are an essential tool in the *Autorité de la concurrence*'s arsenal. Flexible and adaptable in their definition, but then rigorously imposed on companies, they make it possible to carry out mergers without harming competition. As a tool for prevention and compliance, behavioural commitments also offer a rapid response to multiple competition concerns, avoiding sanction procedures for the company.

In recent years, the *Autorité* has been taking a number of actions to develop a competition culture in France through communication with the general public as well as through more technical education for companies, practitioners and theorists of competition law.”

Isabelle de Silva,
President of the *Autorité de la concurrence*



Behavioural remedies

(Bilingual French-English)

Collection Les Essentiels
La Documentation française
9 €, 464 pages

Available in bookshops and on ladocumentationfrancaise.fr website

starting 18 February 2020

Les engagements comportementaux (FR)
L'étude en français

Behavioural remedies (EN)
L'étude en anglais

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