The Autorité de la concurrence publishes a study on professional bodies

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To mark new provisions coming into force that expose professional bodies to heavier and more dissuasive sanctions, and as part of an approach aimed at promoting compliance, the *Autorité* has dedicated a study to the application of competition law to these stakeholders.

An exposed activity and structural risk

The operation of professional bodies may be conducive to anticompetitive activities, such as price agreements, information exchanges or shared actions that aim to block the development of competition. Many cases have shown that trade unions and professional bodies can fairly easily become the catalysts or facilitators of prohibited practices, either as a support or instigator. This risk is structural insofar as these bodies bring together the stakeholders within a market, who are each other's competitors.

An important change to the cap on fines in 2021

In France, until now the total fine imposed upon a business association could not exceed 3 million Euros. The cap on the fine incurred has been increased to 10% of the total turnover of member companies of the bodies, since the adoption of the ECN+ Directive. Professional bodies and their member companies are now consequently exposed to very heavy fines in the event of an offence.

Raising awareness to prevent the antitrust risk

The *Autorité* has decided to support this change by dedicating a study to professional bodies. Drawing on decision-making practice and case law, the aim is to analyse all behaviours that may be opposed to competition law and to present alongside them the pro-competitive actions that can be taken by professional bodies.

Promoting compliance

More than ever, professional bodies are invited to become active in promoting compliance, by informing their members of the antitrust risk through their training and information actions. In order to prevent any risks in this area, they must take additional care regarding their internal discussions and rules, notably those relating to membership, and in their external communication, to ensure that their practices do not suffer humiliating defeat at the hands of competition law.

« Under the impetus of the new European framework, the “antitrust risk” has now been increased tenfold for professional bodies if

they engage in agreements or other anticompetitive practices. We wanted to anticipate this change by providing policymakers with an educational study, consisting of an analysis framework of authorised and prohibited behaviours. In one word, it is a “turnkey” tool to promote compliance. The study is accompanied by a vade mecum listing good and bad practices. I hope that this work will be useful and will help professional bodies

and all their members to prevent the “antitrust risk” inherent in their activity. »

Isabelle de Silva

President of the Autorité de la concurrence

STUDY - PROFESSIONAL BODIES

Access the study (In French)

VADE-MECUM - PROFESSIONAL BODIES

Access the interactive version of the vade-mecum

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