The Autorité de la concurrence fines Double Tour for issuing cover quotes in the tobacconist security provision sector

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Following an investigation by the Directorate General for Competition Policy, Consumer Affairs and Fraud Control (DGCCRF) into the tobacconist security provision sector, mainly in the Pays de la Loire and Nouvelle Aquitaine regions, Leray Sécurité accepted the settlement proposed by the DGCCRF, whereas Double Tour, which had also issued cover quotes, rejected it. The DGCCRF therefore referred the case relating to this company to the *Autorité de la concurrence* in accordance with Article L. 464-9 of the French Commercial Code (*Code de commerce*).

Provision of security to tobacconists

In order to protect their shops from criminal acts, tobacconists regularly employ specialist security companies. They can apply for government aid for this, which covers part of the cost of the work. To obtain this aid, known as "tobacconist security aid", it was necessary at the time of the practices to submit two quotes from competing companies to the public authorities.

Issuing of cover quotes

The investigation established that, between 2011 and 2017, Leray Sécurité and Double Tour regularly exchanged information, particularly by email, concerning the prices and nature of the services tendered to obtain the security work, before submitting their bids. More specifically, in the case of the quotes

concerned by the investigation, when one of the two companies wanted to be chosen to provide security for tobacconist, it would first send a price bid to that tobacconist. It would then ask its competitor to submit a higher bid than its own (known as a "cover quote"). Leray Sécurité and Double Tour exchanged cover quotes on 82 occasions.

Leray Sécurité and Double Tour thus took turns to artificially undercut one another in their quotes, enabling them to win the contracts concerned at the desired price.

A practice that distorted competition and contributed to the misuse of public funds

By using cover quotes to skew the competition process required by regulations, Double Tour breached competition law and contributed to the misuse of public funds.

In view of these factors, and taking into account the scale of the practices but also the low value of the quotes concerned, the *Autorité* handed out a fine of 9,100 euros to Double Tour.

Coordination of powers between the DGCCRF and the *Autorité de la concurrence* concerning local practices

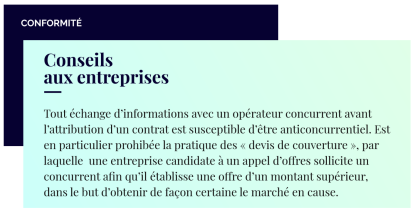
Since 2008, the Minister of the Economy has had the power to issue injunctions and reach settlements in the case of local anticompetitive practices. For anticompetitive practices affecting local markets, by companies with turnover of less than 50 million euros individually (or 200 million euros collectively if more than one company is involved), the Minister is therefore able to propose a settlement which cannot exceed 150,000 euros per company (up to a limit of 5% of their turnover).

If a company rejects a settlement or fails to comply with injunctions, the Minister refers the case to the *Autorité de la concurrence*.

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CONFORMITÉ

Conseils aux entreprises

Tout échange d'informations avec un opérateur concurrent avant l'attribution d'un contrat est susceptible d'être anticoncurrentiel. Est en particulier prohibée la pratique des « devis de couverture », par laquelle une entreprise candidate à un appel d'offres sollicite un concurrent afin qu'il établisse une offre d'un montant supérieur, dans le but d'obtenir de façon certaine le marché en cause.

DECISION 21-D-06 OF 11 MARCH 2021

regarding practices implemented in the tobacconist security provision sector in the Pays de la Loire and Nouvelle Aquitaine regions

See full text of the decision

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