20 September 2018: Management of infectious medical waste generated by healthcare activities

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The Autorité de la concurrence has fined the company Sanicorse for increasing abruptly, significantly, durably and in an unjustified manner the waste disposal prices it charged hospitals and clinics in Corsica.

The Autorité has imposed a fine for excessive and abusive price increases

Following a report by the Directorate General for Competition Policy, Consumer Affairs and Fraud Control (DGCCRF), the *Autorité de la concurrence* has imposed a fine of 199 000 euros on Sanicorse for abuse of dominant position between 2011 and 2015. The company benefited from its monopoly and tried to deter new entrants from entering the market by increasing abruptly, durably and significantly its waste disposal rates for infectious medical waste generated by healthcare establishments in Corsica.

Sanicorse, the only infectious medical waste treatment company in Corsica

Healthcare establishments are obliged under the public health code to treat and dispose of infectious medical waste under precise conditions and within specified deadlines. To do this, they can make use of specialist service providers, such as Sanicorse, which is, in Corsica, the only company active in the waste disposal sector.

Unjustified price increases imposed on healthcare establishments for a period of over four years

From February 2011 onwards, Sanicorse imposed abrupt, lasting and significant price increases on the island's healthcare establishments. The average price imposed by Sanicorse increased by around 88% between 2010 and 2012. This general increase was also reflected in significant individual increases:

For example:
- Centre hospitalier de Castelluccio: + 194 % in 2011.
- Centre hospitalier de Sartène: +19% in 2011, +87% in 2012 (i.e., +123% in total).
- Polyclinique du Sud de la Corse: +135 % in 2012.

For more details, see paragraph 65 and following of the decision

These price increases were introduced at the same time that Sanicorse was threatening to terminate contracts or was opting not to bid for tenders in the sector (including bloc tenders for all healthcare establishments).
These increases continued through to 2015 and were not justified by any of the explanations put forward by Sanicorse, particularly those explanations based on increases to its costs and its investments. On the contrary, the *Autorité* noted that the significant price increase strategy implemented by Sanicorse resulted from a desire to deter the healthcare institutions from developing alternative solutions for the disposal of infectious medical waste.

Faced with no other alternative, the healthcare establishments, which had been "taken hostage" to echo the term used by the Polyclinique du Sud de la Corse, were in the end forced to conclude individual contracts at the prices set by Sanicorse.

These practices had an adverse impact on the finances of healthcare establishments in Corsica

These unfair practices generated an unjustified additional cost for healthcare establishments, which had no other choice than to agree to the conditions imposed by Sanicorse. This additional cost has been particularly harmful in that certain Corsican hospitals are experiencing significant financial difficulties - as

noted by the Court of Auditors - and these sums could have been used to improve the quality of public and private healthcare services.

Consequently, the *Autorité de la concurrence* has fined Sanicorse 199 000€.

A sanction which falls within established decision-making practice of competition authorities as regards unfair and excessive prices.

In view of French and European competition law, companies which are in a leading position can be sanctioned when they abuse this position by imposing unfair prices: we then talk of "exploitative abuse" (*abus d'exploitation*).

The *Autorité*, which had in the past sanctioned pricing practices of a dominant operator in the telecom sector in French overseas territories (**Decision 09-D-24** / **Press release of 28 July 2009**) today fines Sanicorse, as it considers that the company used its position in the market to practice abusive price increases for its captive customers. This increase was implemented abruptly, significantly, durably and the company was unable to offer any objective or relevant justifications to explain this increase.

> See Decision 18-D-17 of 20 September 2018 regarding practices implemented in the waste disposal for infectious medical waste sector in Corsica

> **See our infographics**

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> This decision was submitted before the cour d'appel de Paris (pending case)