Notarial property advertisement: rejection of the request for interim measures submitted by Notariat Services but the Autorité continues to investigate into the merits of the case

Published on June 24, 2021

The *Autorité de la concurrence* rejects the request for interim measures submitted by Notariat Services concerning the practices of the ADSN Group in the notarial property advertising sector. It continues to investigate the merits of the case.

Background

The case was referred to the *Autorité* by Notariat Services due to practices allegedly implemented in the notarial property advertisement sector by the Association pour le développement du service notarial (ADSN) and its subsidiary ADNOV, which form the ADSN Group. The *Autorité* rejects the request for interim measures but continues to investigate the merits of the case.

The running of property advertisements by notaries

As part of their property negotiation activity, notarial offices run online advertisements for properties for sale or rent on specialised portals (Immonot.com[1] and Immobilier.notaires.fr[2]), as well as on non-specialised

portals such as Leboncoin and SeLoger.

To run their advertisements on non-specialised sites, notaries can contract the site in question directly or, in the vast majority of cases, take out a "multicasting" [3] offer with Notariat Services or the ADSN Group. In concrete terms, notaries create their advertisements using dedicated software or from the customer area of a portal. The advertisements are then formatted and run on different media (portals, the office website, etc.) thanks to computer gateways, without the need to enter them several times.

These are the practices alleged by Notariat Services against the ADSN Group

Notariat Services is accusing the ADSN Group, which manages the Immobilier.notaires.fr portal on behalf of the Conseil supérieur du notariat (CSN), of having implemented a global strategy aimed at eliminating it from the markets for running advertisements on notarial property sites and for multicasting to sites not specialising in notarial property advertisements. According to the complainant, this strategy took the form, inter alia, of confusion between the competing and monopoly activities of the ADSN Group (through the use of the profession's logo, for example), abnormally low prices, cross-subsidies and the shutdown of a computer gateway on 10 November 2020.

Since 2012, the computer gateway in question had allowed notaries who created their advertisements on Immonot Pro software (published by the complainant) to run them on the Immobilier.notaires.fr portal and multicast them on other non-specialised sites, provided that they had signed a broadcasting or multi-casting contract with the ADSN Group. This shutdown occurred following a refusal by Notariat Services to respond to the ADSN Group's request to carry out certain technical developments related to multicasting. Since this shutdown, Notariat Services claims to have experienced threats of termination and terminations by customers it had previously served.

At the same time as bringing the complaint on the merits of the case, it filed a request for interim measures to order the ADSN Group to restore the shutdown computer gateway.

The request for interim measures does not meet the urgency criteria

The damage to Notariat Services' interests is not directly linked to the behaviour of the ADSN Group, but to a choice made by Notariat Services, namely not to carry out certain IT developments requested by the ADSN Group. In particular, the *Autorité* noted that the information in the case file does not, at this stage, show that Notariat Services would suffer immediate harm to its interests if it agreed to develop the multicasting functionality, a condition imposed by the ADSN Group in order to reactivate the computer gateway that was shut down on 10 November 2020. Furthermore, no immediate harm to the general economy, the sector concerned or the interest of consumers has been proven.

In view of these elements, the *Autorité* rejected the requests for interim measures and decided to continue the investigation into the merits of the case.

[1] Immonot.com is operated by Notariat Services.

[2] Immobilier.notaires.fr is owned by the Conseil Supérieur du Notariat and operated by ADNOV.

[3] The practice allows advertisers, such as notarial offices, to run propery advertisements on several portals.

Compliance

Information for undertakings

In the event of a situation requiring rapid intervention, the *Autorité de la concurrence* may order interim measures pending a decision on the merits of the case, if there is serious and immediate harm to the interests of an economic sector or a company.

The conditions to be met for ordering interim measures are:

-a causal link between the facts reported and the alleged infringement;

-serious and immediate harm to the interests of the company, the general economy, the sector concerned or the interests of consumers.


CONFORMITÉ

Informations aux entreprises

Face à une situation nécessitant une intervention rapide, l'Autorité de la concurrence peut être amenée à prononcer des mesures conservatoires en attendant de se prononcer sur le fond du dossier, en cas d'atteinte grave et immédiate aux intérêts d'un secteur économique ou d'une entreprise.

Les conditions à remplir pour le prononcé d'une mesure d'urgence sont :

- un lien de causalité entre les faits dénoncés et l'atteinte alléguée ;
- une atteinte grave et immédiate aux intérêts de l'entreprise ou à l'économie générale, au secteur intéressé ou à l'intérêt des consommateurs.

21-D-15 OF 24 JUNE 2021

regarding a request for interim measures submitted by Notariat Services in the notarial property advertisement sector

See full text of the decision

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