

Takeover of Conforama by But group

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The *Autorité* identifies competitive risks but clears the transaction without commitment, in application of the failing firm exception.

In July 2020, the Autorité cleared Mobilux (parent company of the But group) to acquire Conforama without waiting for its merger control review. Having concluded its analysis, the *Autorité* considered that the transaction would give rise to three main categories of risks to competition, which Mobilux was not able to demonstrate could be offset by efficiency gains.

Despite these risks, the *Autorité* cleared the transaction without commitment, in application of the failing firm exception. The failing firm exception consists of unconditionally clearing the takeover by a competitor of a company that would disappear in the short term if the transaction were not carried out, even if the transaction is detrimental to competition.

This particular faculty has been rarely used in Europe. The *Autorité* had never applied this particular option since it has had the power to control mergers, given the very strict nature of the assessment criteria.

PRESS RELEASE

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