Sale of access to company databases: The Autorité condemns several Bureau van Dijk Group companies and Ellisphere for price fixing and client allocation

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Background

The *Autorité de la concurrence* (hereinafter "the *Autorité*") condemns the price-fixing and client allocation practices committed over a period of more than 30 years by Bureau van Dijk ("BvD") and the company Ellisphere in the sector of the sale of subscriptions to economic intelligence and business information products.

These practices were revealed to the *Autorité* in July 2019 following a leniency application by Moody's Corporation (parent company of the BvD group since 2017). This procedure allows undertakings that have participated in a cartel to disclose its existence and obtain, under certain conditions, the benefit of a total or partial exemption from financial penalty. In this case, BvD and Moody's Corporation were granted a full exemption from financial penalties.

Ellisphere did not contest the objections notified to it but benefited from the settlement procedure. The *Autorité* imposed a penalty of €3,500,000, which is within the range set out in the settlement report.

This procedure is the first to implement the new leniency procedure resulting from Act 2020-1508 of 3 December 2020, known as the "DDADUE Act".

BvD and Ellisphere entered into agreements containing joint-pricing and client allocation clauses

BvD and Ellisphere are companies that market subscriptions to databases containing information about companies (including financial data and information on the identity of administrators and managers) such as Diane, Astrée, Amadeus and Orbis. As both companies have developed specific skills, BvD specialising in the development of software solutions for data collection and mining and Ellisphere in the collection of information on French companies, in 1989 they concluded a cooperation agreement which they have subsequently renewed on several occasions, via amendments or new contracts.

The different agreements in question included, among other things, clauses providing for a system of joint pricing of products and a client allocation mechanism. However, as the *Autorité* constantly recalls, this type of clause has an anticompetitive purpose insofar as it has the effect of removing two essential parameters of competition.

Simultaneous application of the leniency procedure and the settlement procedure

By informing the *Autorité de la concurrence* of the practices in question, Moody's Corporation applied for leniency under Article L.464-2 of the French Commercial Code (*Code de commerce*), which provides that *"a total or partial exemption from financial penalties may be granted to a company or association of companies which has, with others, implemented a practice prohibited by the provisions of Article L. 420-1 if it helped to establish the reality of the prohibited practice and identify its perpetrators, by providing information not previously available to the Autorité or the administration".*

In this case, the *Autorité's* General Rapporteur recognised the eligibility of Moody's Corporation for a conditional full exemption from the financial penalty. At the end of the procedure, the *Autorité* considered that Moody's Corporation had complied fully and diligently with the conditions set by the General Rapporteur and therefore exempted it from any financial penalty.

Ellisphere applied for the settlement procedure, which resulted in a lower financial penalty.

Learn more about the leniency programme

Learn more about the settlement procedure (PDF)

Information for companies

In this proceeding, the *Autorité* implemented, for the first time, the amendments to the leniency programme resulting from Article L. 462-2, IV, of the French Commercial Code (*Code de commerce*) as amended by Act 2020-1508 of 3 December 2020, known as the DDADUE Act, which incorporates the provisions of Directive 2019/1 of 11 December 2018, known as ECN+.

Prior to this new text, the leniency programme could only be implemented after the adoption of a leniency notice by the *Autorité*'s Board. It is now the responsibility of the General Rapporteur to inform the company of its eligibility for a partial or total exemption from penalties under the leniency procedure. The General Rapporteur also sets the cooperation conditions that the company must meet in order to benefit from this exemption. At the end of the procedure, the Board naturally remains competent to assess whether the company concerned can be exempted, partially or totally, from the penalty.

DECISION 23-D-04 OF 12 APRIL 2023

on practices implemented in the sector of the sale of subscriptions to business intelligence and corporate information products

See the full text of the decision (in French)

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