Advertising on iOS mobile applications: the General Rapporteur confirms having notified the Apple group of an objection

Published on July 27, 2023

The General Rapporteur of the Autorité de la concurrence has confirmed that an objection has been notified to the Apple group, concerning practices in the distribution of mobile apps sector, which are likely to have consequences on several related markets for advertising and consumer services.

Apple is accused of abusing its dominant position by implementing discriminatory, non-objective and non-transparent conditions as regards the data mining of user data for advertising purposes.

This investigation opens inter partes proceedings and makes it possible to exercise rights of defence. It does not prejudge the culpability of the company that has received notification of objections. Only an inter partes investigation that respects the rights of defence of the company concerned will enable the Board to determine, after exchanging written observations and following an oral hearing, whether or not the objection is well-founded.

The Autorité de la concurrence will not comment further on the practice in question.

The Autorité will now communicate on statements of objections

Article L. 463-6 of the French Commercial Code provides that the Autorité may publish brief information relating to the acts it performs with a view to the investigation, observation or sanction of anticompetitive practices, when the publication of this information is carried out in the public interest and in strict compliance with the presumption of innocence of the companies or associations of companies concerned.

This possibility results from an amendment to the Commercial Code by ordinance 2021-649 of 26 May 2021 relating to the transposition of Directive (EU) 2019/1 of the European Parliament and of the Council of 11 December 2018 aimed at providing Member States' competition authorities of the means to more effectively enforce competition rules and to ensure the proper functioning of the internal market.

Other European competition authorities use this option, such as the European Commission, the Austrian, Belgian, Dutch, Greek and Portuguese competition authorities.

What is a statement of objections?

The statement of objections is the "indictment". This document is sent by the Autorité's investigation services to companies or organisations suspected of having implemented anticompetitive practices (mainly cartel and abuse of a dominant position).

This investigative act opens the inter partes proceedings before the Autorité during which the parties can make any legal or factual observation, while respecting the rights of the defence.

The written inter partes proceedings was reformed by the law of 3 December 2020, known as the “DDADUE Act”.

Now, depending on the characteristics of the case, there may be one or two written inter partes rounds.

In all cases, the case gives rise to an oral hearing before the board, during which the parties, the government commissioner, and, where applicable, witnesses or experts are heard.

A statement of objections does not prejudge in any way the culpability of the companies or organisations concerned. It is only at the end of the investigation, and following a hearing, that the board independently determines whether the objections are well-founded.



For the record:

On 23 October 2020, the Autorité de la Concurrence received a referral from several associations representing various players of the online advertising sector, along with a request for interim measures against Apple. This included the compulsory introduction of the ATT prompt for iOS apps that wished to track user activity by linking data from user or device data collected from their apps, with user or device data collected from other companies' apps and websites for the purposes of targeted advertising or ad measurement.

In decision 21-D-07, the Autorité rejected the request for interim measures, specifying that it would continue the investigation into the merits of the case.

Contact(s)

Maxence Lepinoy
Chargé de communication,
responsable des relations avec les médias
06 21 91 77 11
Contact us by e-mail