The Autorité de la concurrence fines Sony €13.5 million for abusing its dominant position (PS4 video game controllers)

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Following a referral from Subsonic, a French manufacturer of video game controllers, the *Autorité* has fined Sony (four group companies, including the Japanese parent company) for abusing its dominant position in the market for the supply of video game controllers for PlayStation 4 (PS4) consoles for more than four years.

The *Autorité* has sanctioned two practices:

- First, Sony's use, from November 2015, of technical countermeasures, allegedly implemented to combat counterfeiting, which affected the proper functioning of third-party video game controllers (produced by manufacturers other than Sony and without an official Sony licence), regularly leading to them being disconnected during console operating system updates.

While the *Autorité* stresses the legitimacy of the objective of combating counterfeiting, it points out that such measures were disproportionate, since they affected all "unlicensed" controllers indiscriminately.

- Second, an opaque licensing policy, which in several cases prevented rival companies that wanted to market PS4-compatible controllers from joining the OLP partnership programme, which is the only way for third parties to obtain an official licence and unique identification numbers. The *Autorité* found that by refusing to communicate the OLP access criteria to manufacturers who requested them, Sony applied the criteria in a

discretionary manner, even though access to the programme was the only way to avoid disconnections.

The *Autorité* considers that the combination of these two practices significantly damaged the brand image of the third-party manufacturers affected, with regard to both players and distributors, slowing down their expansion in the market and leading to their possible foreclosure.

The fine, amounting to €13,527,000, is imposed jointly and severally on three subsidiaries and the parent company of the Sony group:

- Sony Interactive Entertainment Europe Limited (in charge of the licensing programme in Europe);
- Sony Interactive Entertainment Inc. K.K (responsible for rolling out operating system updates for the PS4 console);
- Sony Interactive Entertainment France (responsible for marketing controllers in France);
- Sony Group Corporation (parent company).

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