Cinema and audiovisual: the Autorité issues an opinion on competition in the talent representation sector

Published on October 01, 2026

Considering that economic violence fell within the substantive scope of its work, the commission of inquiry of the French National Assembly (*Assemblée nationale*) into violence in the film, audiovisual, live performance, fashion and advertising sectors asked the *Autorité de la concurrence* for an opinion. Further to this request, the *Autorité* has issued an opinion analysing the competitive functioning of the talent representation sector in the film and audiovisual industry and setting out several recommendations aimed at addressing the negative consequences of market concentration in this sector. This is the first time that an administrative authority has examined the sector in such depth.

How the sector works

Talent representation involves representing artists and defending their professional interests in dealings with other sector operators, in particular producers, with a view to securing roles for artists in artistic projects, negotiating the terms of their employment contracts, and thereby developing their professional careers.

Talent agents enter into agency agreements with artists, often on a merely verbal basis. In addition, the relationship between agent and artist is very often based on the principle of exclusivity. Certain aspects of talent agents' remuneration are regulated by the French Labour Code (*Code du travail*); in particular, their commission has been capped, since 1971, at 10% of artists' gross remuneration. In practice, this commission is paid directly by producers to

agents, meaning that artists may not necessarily be fully aware of the fact it is deducted from their remuneration. Moreover, it appears that most operators ultimately view this commission rate as both a maximum and a minimum and are unaware that it can be negotiated downwards.

The *Autorité*, which heard from a number of artists during the preparation of this opinion – including Guillaume Gallienne and Denis Podalydès – found that agents play a key role in the sector, ensuring that artists are visible to producers and facilitating contacts during auditions. Furthermore, the sector is highly dependent on the dynamism of the French film and audiovisual industry, which is increasingly favouring big-budget productions.

The structure and competitive dynamics of the sector

The sector is highly concentrated around two major agencies: the Adéquat/Artmedia group and, to a lesser extent, the UBBA agency. Their prominent position in the sector is reflected both in their economic weight and in their presence in French productions.

This concentration has several negative consequences for the film and audiovisual industry, as it creates bottlenecks in the casting process and may affect the quality of services provided to artists and increase the risk of conflicts of interest.

Recommendations to improve the functioning of the sector

To mitigate the negative effects arising from this level of concentration, the *Autorité* analysed a number of measures. First, with regard to the proposals put forward by the commission of inquiry, such as introducing professional certification or increasing agents' training requirements, the *Autorité* considers that such measures would not help to alleviate the sector's high level of concentration. However, it supports wider adoption of the various mechanisms that facilitate direct contact between artists and producers.

In addition, the *Autorité* examined the structure of agents' remuneration. While it does not recommend removing the cap on commissions, given the uncertainty surrounding the overall effects of such removal, it recommends updating the level of the cap, which has remained unchanged since 1971. It also recommends providing artists with better information about the possibility of setting a commission rate below 10%. Lastly, the *Autorité* emphasises the need to improve the information provided to artists on the terms of agency contracts, in particular the services to be provided, in order to promote competition in the sector. In this regard, it invites agents to adopt written agency contracts as standard practice.

PRESS RELEASE OF 1 OCTOBER 2026

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