# Competition history

Competition policy has constantly evolved throughout the world since the late 19th century. To understand the economy of today, we must also understand the history of competition.

Take a look back at key moments in the history of competition and some of the key concepts in competition law and how they apply in France.

## A brief guide to competition

### What is competition?

Competition refers to the process by which companies compete with each other in the marketplace to best meet the expectations of both business customers and consumers. Competition can take different forms: companies can compete on price; they can also try to stand out through innovation or product differentiation (quality, variety).

Competition gives companies a constant incentive to innovate and improve their productivity, which helps to drive sustained growth.

Learn more about the benefits of competition

## What is competition policy?

To ensure the struggle between companies takes place on a level playing field and is based on each company's merits, rules of play are necessary. This is the role of competition policy, which aims to guarantee the conditions for free and fair competition between companies on the market, in order to safeguard consumers' interests.

In France, the *Autorité de la concurrence* is responsible for ensuring that a fair and sustainable competitive playing field is maintained. It does so by penalising the formation of anticompetitive agreements and cartels and abuses of dominant position, by reviewing mergers prior to implementation, and by recommending legislative and regulatory changes to the public authorities (advisory activity).

Learn more about the Autorité's missions

**10 years of action**

Take a look back at 10 years of action by the Autorité de la concurrence – antitrust cases, merger cases and opinions that had an impact on the economic life and day-to-day of the French people.

Discover in pictures the major decisions issued by the Autorité (in French)

## The genesis of competition law and the creation of a competition authority

Openness to competition has its roots in the French Revolution. The **Chapelier Act** of 1791 prohibited members of the same corporation from joining forces to regulate their "common interests". Twenty years later, the **French Criminal Code** (*Code pénal*) banned coalitions from manipulating prices "above or below the level that would have been determined by free and natural competition", a provision (Article 419) that remained in the French Criminal Code for 176 years.

In the 19$^{th}$ century, the first debates on the regulation of competition also began in the United States. In 1890, at a time of burgeoning oil, steel and banking conglomerates, the United States passed the **Sherman Act** (also known as the Antitrust Act), which opposed commercial practices restricting competition and prohibited a company with a monopoly in one sector from using that monopoly

to control another sector. It was supplemented in 1914 by the **Clayton Act**, which governed mergers. This was the beginning of modern competition.

In France, regulation gradually increased from 1953 (when the *Commission technique des ententes* was established), but the main concern remained control of inflation. It was not until 1986 that a genuine competition policy was developed, following the adoption of the **French ordinance of 1 December 1986**, which laid the foundations of the market economy, brought an end to price regulation and created the *Conseil de la concurrence*. In 2008, the **French law on the Modernisation of the Economy ("LME Law")** established the *Autorité de la concurrence*, which had more extensive powers and replaced the *Conseil de la concurrence*.

### 25 years to build competition

Competition was born with the market economy. It was fully recognised by the French ordinance of 1 December 1986, which laid the foundations for a modern competition law, based on independent regulation.

Established by this ordinance, the Conseil de la concurrence evolved constantly to play a central role in the regulation of markets, becoming the Autorité de la concurrence.

Learn more about the institution's history (in French)
See the full brochure celebrating 25 years of competition (in French)

## France and Europe: competition in dates

**1953** Publication of the **French decree** of 9 August **establishing the *Commission technique des ententes***.

Signature of the **Treaty of Rome** establishing the European Community. Competition law has a major place in the Treaty: in particular, the Treaty lays down rules for fair competition between Member States.

The French law of 2 July 1963 extends the powers of *Commission technique des ententes* to abuses of dominant position, which is renamed the ***Commission technique des ententes et des positions dominantes***.

The *Commission technique des ententes et des positions dominantes* becomes the ***Commission de la concurrence***. It advises the French government on competition issues and delivers opinions on mergers and proposed mergers.

Publication of the **French ordinance on pricing freedom and competition**. It lays the foundations of French competition law by creating the ***Conseil de la Concurrence***, giving the *Conseil* the power to sanction anticompetitive practices (anticompetitive agreements and cartels, abuses of dominant position).

Publication of the **French law on New Economic Regulations ("NRE Law")**, which enhances the powers of the *Conseil de la concurrence*. The ceiling on fines is raised to 10% of companies' worldwide turnover. New procedures, such as leniency and no contest of objections, are introduced.

Competition authorities are required to apply Community law directly (Regulation (EC) No 1/2003). Cooperation between European authorities is established with the creation of the **European Competition Network**.

The ***Autorité de la concurrence***, which replaces the *Conseil de la concurrence*, is established. The 2008 law on the Modernisation of the Economy ("LME Law") gives the *Autorité* responsibility for reviewing mergers, which has previously lain lay with the Ministry of the Economy. Its investigative powers are extended and it can now take up any competition issue for an opinion at its own initiative.

**2015** Promulgation of the **French law for Growth, Activity and Equal Economic Opportunities**, known as the "Macron Law", which gives the *Autorité* further responsibilities related to the regulation of the regulated legal professions (establishment of new professionals and prices) and introduces the settlement procedure.

Publication of the **ECN+ Directive**, which gives all European competition authorities a common minimum set of resources to ensure more effective enforcement of competition rules. After its transposition into French law, the *Autorité* will be able to reject certain referrals (discretionary prosecution) and to start proceedings *ex officio* to order interim measures. It will also be able to issue structural injunctions in the context of litigation proceeedings.