The Autorité de la concurrence will now be able to access the data of electronic communication operators for its investigations.

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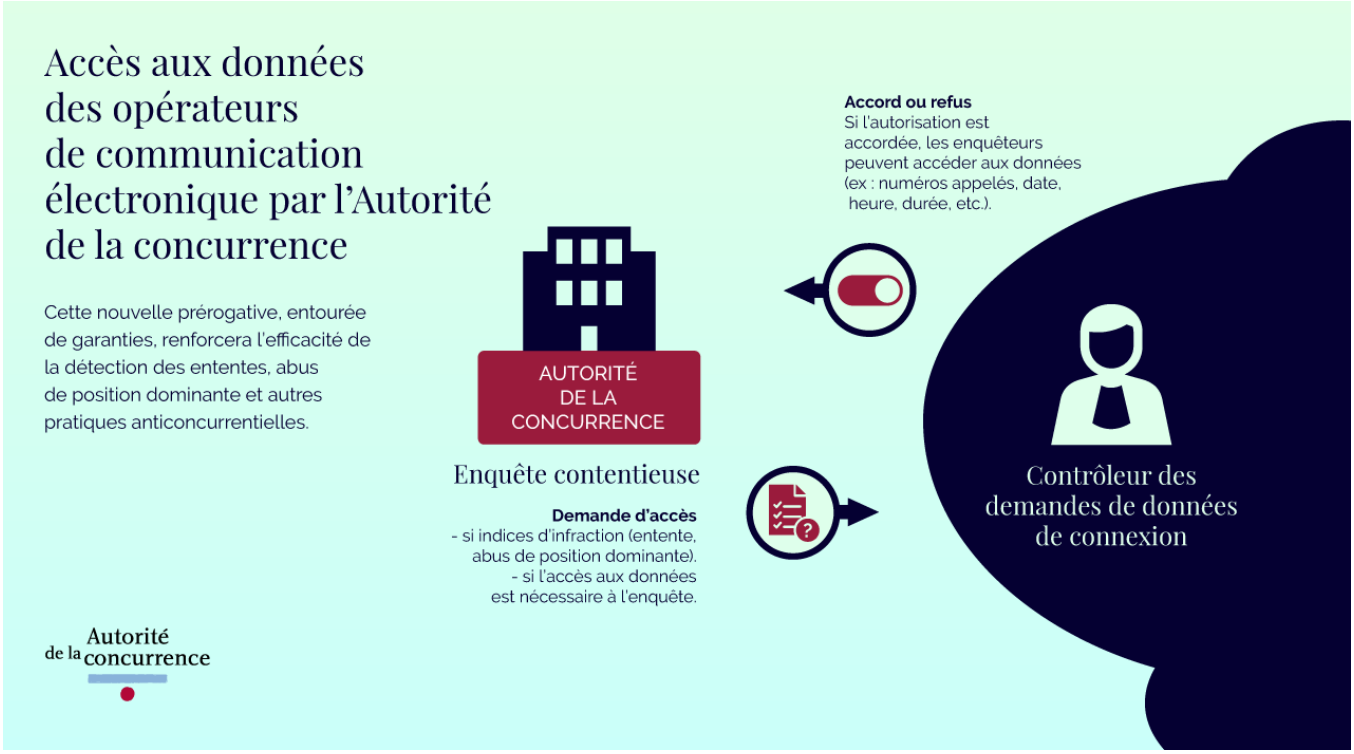
With the publication of the decree implementing the PACTE Law, this new prerogative, accompanied by safeguards, will enhance detection of cartels, abuses of dominant position and other anticompetitive practices.

By introducing a new Article L. 450-3-3 in the French Code of Commercial Law (*Code de commerce*), the PACTE Law for the Growth and Transformation of Companies of 22 May 2019, has given the *Autorité de la concurrence* new power to investigate anticompetitive practices. The law now allows it to access, under strictly regulated conditions, the connection data of telephone operators.

Where there are indications of an infringement or breach and access to connection data is necessary for the purposes of the investigation, the *Autorité* may submit a request for access to connection data to a new authority, the "Connection Data Request Supervisor". The procedure is subject to safeguards. The Supervisor will be a member of the French Administrative Supreme Court (*Conseil d'État*) or a judge of the French Supreme Court (*Cour de cassation*). It may authorise access to the data for a specific investigation. If permission is granted, investigators will be able to access information such as the telephone numbers called by a specific person, the date and time of the call, and its duration. This information will enable investigators to determine, on the basis of the entire file, whether anticompetitive practices (e.g. price-fixing agreements) have been implemented.

Decree 2019-1247 of 28 November 2019, which has just been published in the Official Journal of the French Republic (JORF) of 29 November 2019, now specifies the procedure for communicating connection data. In particular, it lays down the documents that must be provided in support of a connection request, and the arrangements for storing and destroying the data in question. The procedure for accessing connection data can thus now become operational as soon as the Supervisor is appointed.



Isabelle de Silva, President of the *Autorité de la concurrence*, welcomed the entry into force of the measure: "Some companies are using increasingly sophisticated means to conceal illegal practices. It is therefore necessary for us to have enhanced means of investigation. In this context, the possibility of access to the connection data kept by telecommunications operators constitutes an additional valuable asset for the effectiveness of the *Autorité*'s investigations."

The procedure for access to connection data entrusted to the *Autorité de la concurrence* is similar to that available to the *Autorité des marchés financiers* (AMF) for its investigations.

Contact(s)

Bertille Gauthier
Communications Officer
+33155040039
Contact us by e-mail