

Only the French version is authentic and it prevails in the event of its differing from the translated version.

Decision n° 18-DCC-18 of 1 February 2018 relating to the acquisition of sole control of the company Concept Multimedia by the Axel Springer Group

The *Autorité de la concurrence* (plenary hearing),

Considering the notification case submitted to the Mergers Unit on 24 July 2017, and declared complete on 4 August 2017, relating to the acquisition of sole control of the company Concept Multimedia by Axel Springer Group, which was formally agreed through the signature of a memorandum of understanding on 25 April 2017, to which a draft share transfer agreement has been appended.

Considering Book IV of the French Commercial Code (*Code de commerce*) on the freedom to set prices and to compete, especially articles L. 430-1 to L. 430-7;

Considering Decision 17-DEX-02 of 11 September 2017 to launch an in-depth examination pursuant to the provisions of the last paragraph of III of article L. 430-5 of the *Code de commerce*;

Considering the observations submitted by the representatives of Axel Springer on 26 December 2017 in response to the report of the case team of 1 December 2017;

Considering the other evidence in the case;

The *Case Officers*, the Deputy General Rapporteur, the representative of the minister of the economy and the representatives of Axel Springer having been heard at the hearing of 11 January 2018;

The representatives of the companies [Confidential] and Facebook having been heard pursuant to the provisions of article L. 430-6, paragraph 3 of the *Code de commerce*;

Adopts the following decision:

Summary¹

On 24 July 2017, Axel Springer group, which controls the company SeLoger, notified its acquisition of sole control of the company Concept Multimedia (“Logic-Immo”).

On 11 September 2017, the Autorité opened an in-depth examination since the information submitted at that stage by the notifying party and the results of the market test were not sufficient to fully exclude the risk of harm to competition. In particular, there was a serious doubt that the transaction, which gave the new entity a market share (by value) exceeding 50%, could have horizontal effects on the online property ads market for professionals.

Via the decision in question, the Autorité has ruled for the first time on the merger of two platforms, both of which specialise in the online publication of property ads for real estate professionals.

The in-depth examination, which was based primarily on the hearings of the customers and competitors, an online questionnaire of over 30,000 real estate professionals conducted by the case team, the examination of a large number of internal documents belonging to the parties and several economic studies, led to the conclusion that this transaction was not likely to harm competition on the relevant markets.

As regards the definition of the relevant markets, although various segmentations were envisaged, the investigation established that a global online property ads market for professionals should be considered. This market was defined at national level while taking into account the fact that the effects of the transaction should also be analysed at local level. However, the question of geographical delineation remains open insofar as the conclusions of the competitive analysis are the same regardless of the assumption considered.

The competitive analysis entailed primarily a study of the risks of price increases, the exclusion of competitors and the coordinated effects on the property ads market for real estate professionals.

Firstly, the risks of price increases resulting from the transaction were excluded at national level insofar as, prior to the transaction, the parties were not exerting significant competitive pressure on each other. Even though the market share (by value) of the new entity is estimated at [50-55] %, a significant increase in its prices will not be profitable as it would lead to demand being shifted to the other property classified portals, especially Le Bon Coin. At local level, the risk of price increases was also excluded, including in Île-de-France and Provence-Alpes-Côte d’Azur (PACA), where the new entity has strong positions with an estimated market share (by value) of [55-60] %. In these two regions, the transaction is not likely to change the parties’ incentive to increase their prices, as the parties do not exert significant competitive pressure on each other. This analysis does not mean that the new entity will not introduce price increases in the future, but that such increases are not more likely as a result of the transaction.

Secondly, the bundled scheme likely to be proposed by the new entity on the online property ads market would not be likely to lead to the significant elimination of competition based on either a static or dynamic approach. Though such an offer could lead to a decrease in the number of ads and the turnover of the competitors of the new entity, this reduction would be limited and would not be exacerbated in the long term.

¹ This summary is strictly for information purposes. Only the grounds of the decision listed below are authentic

Thirdly, the risks of coordinated effects involving the new entity and Le Bon Coin group were also excluded, insofar as the detection condition, which is one of the three criteria required to identify such an effect², was not met. These two players, which have a very different positioning and commercial models, operate in a market on which there is little price transparency.

Lastly, any risk of harm to competition due to conglomerate effects between the online and print media property ads markets has been excluded, primarily due to the decline of the property ads market in the printed media sector.

As the transaction is not likely to harm competition on the relevant markets, the Autorité de la concurrence authorised unconditionally the acquisition of the company Concept Multimedia by Axel Springer Group.

² Apart from the mutual understanding of the model of coordination, three cumulative conditions must be met in order to be able to characterise the existence of a collective dominant market position: (i) a sufficient level of market transparency enabling each oligopolist to know the behaviour of each of the other members in order to ensure that none deviates from that behaviour (detection condition); (ii) the perpetuation of the coordination due to a threat of reprisals that dissuades each oligopolist from deviating from the common line of conduct (dissuasive condition); and (iii) a lack of effective questioning of the coordination by current and potential competitors and by consumers (no contest condition).

CONTENTS

I. The companies involved and the transaction	8
A. The parties	8
B. The transaction	9
II. Delineation of the relevant markets	9
A. The online property ads market.....	9
1. The product market	9
a) A single market or two separate markets?	10
i. Reminder of the past decisions of competition authorities	10
ii. The position of the notifying party	11
iii. Assessment in this case.....	11
b) Segmentation of the online property ads market	11
i. Determining whether the websites of real estate professionals should be taken into account.....	11
♦ The position of the notifying party.....	11
♦ Assessment in this case	12
ii. Determining whether seasonal rental ads websites should be taken into account	13
♦ The position of the notifying party.....	13
♦ Assessment in this case	13
iii. Segmentation by type of advertiser	13
iv. Segmentation by type of property	14
♦ The position of the notifying party.....	14
♦ Assessment in this case	15
2. The geographical markets	18
B. Ads markets in the print media sector	21
1. The product markets	21
2. The geographical markets	22
C. Online advertising markets	22
1. The product markets.....	22
a) Segmentation of the online advertising market between search advertising and display advertising.....	22
b) A market segment for advertising limited to web pages dedicated to property	23
2. The geographical markets	24

III. Competitive analysis	24
A. The online property ads market.....	25
1. The characteristics of the market	25
a) The functioning of the market.....	25
i. « Multihoming » (multi-publication and multi-consultation)	25
ii. The different types of contracts	25
iii. Use of portals compared to the use of estate agencies	26
b) The competitive positioning of the parties.....	26
i. SeLoger	26
ii. Logic-Immo	27
c) The competitive positioning of the current main competitors	27
i. The main specialist property portals	27
♦ AVendreALouer.....	27
♦ Explorimmo.....	28
ii. The main general-interest portals	28
♦ Le Bon Coin	28
♦ ParuVendu	29
d) New entrants	29
e) Potential competitors.....	32
f) The counter-power of demand.....	35
2. The criteria guiding the competitive analysis	36
a) Number of ads published	37
b) Examination of the audience criterion	37
c) Examination of the turnover criterion	39
3. Horizontal effects on the online property ads market	40
a) The risk of price increases at national level	40
i. Market shares at national level.....	40
ii. The current market power of SeLoger (pre-transaction).....	42
iii. Elimination of competition among the parties	43
♦ The competitive position of Logic-Immo	43
♦ Analysis of the competitive proximity between the parties	44
iv. Analysis of the diversion ratios	46
♦ The impact of multi-publication by advertisers on the incentive of the parties to increase their prices	47
♦ Estimation of the diversion ratios based on the transfers observed	47

♦	Estimation of the diversion ratios based on the questionnaire	51
♦	Conclusion.....	54
v.	Le Bon Coin is a credible alternative to the new entity	54
b)	The risk of price increases at local level	56
i.	Market share estimations at local level	56
ii.	Effects of the transaction in Île-de-France	59
iii.	Effects of the transaction in PACA	60
c)	Taking into account cross-side network effects	61
i.	Current extent of the cross-side network effects.....	61
ii.	Impact of the network effects on the incentive of the new entity to increase its prices.....	64
4.	The risk of competitors being excluded from the online property ads market.....	64
a)	The risk of exclusion linked to bundling.....	64
i.	Ability of the new entity to establish a bundled scheme.....	65
ii.	Incentive for the new entity to establish a bundled scheme	66
iii.	Competitive impact of bundled schemes.....	66
♦	The position of the notifying party.....	66
♦	Assessment in this case	67
♦	Estimations of the case team	68
♦	Conclusion on the competitive impact of the bundled schemes offered by the parties	75
b)	The risk of exclusion linked to data acquisition	75
5.	Coordinated effects on the online property ads market.....	76
6.	The conglomerate effects between online property ads and property ads in the print media	79
a)	The risk of foreclosure on the online property ads market	79
b)	The risk of foreclosure on the market for property ads in print media	80
B.	Online advertising markets	82
IV.	Efficiency gains.....	82

I. The parties and operation

A. THE PARTIES

1. The company **Axel Springer Digital Classifieds France SAS** is owned by the company Axel Springer SE, which is incorporated under German law, and which heads up the Axel Springer Group (hereinafter “Axel Springer”), which is itself controlled by Mrs Friede Springer. Axel Springer is active in the ads, print media and communication services sectors.
2. In the ads sector in France, Axel Springer owns the companies SeLogger (online property ads) and Car&Boat Media (online ads for cars and boats). SeLogger edits the portals *seloger.com* et *immastreet.com*, as well as other sites dedicated to certain types of real estate properties, such as prestigious properties (*bellesdemeures.com*, *prestige.seloger.com*), new properties (*selogerneuf.com*), building plots and the construction of detached houses (*seloger.com/construire*), offices and business premises (*agorabiz.com* and *webimm.com*), rentals to private individuals (*louervite.fr*) and holiday rentals (*agites.com*, *amivac.com*, *vacances.seloger.com* et *vacances.com*). SeLogger also edits a property estimation website, *lacoteimmo.com*.
3. In the print media sector in France, Axel Springer edits Marmiton Magazine, which is a specialist lifestyle magazine. It also owns 50% of the share capital in the company Éditions Mondadori Axel Springer, which edits car magazines (Auto Plus, L’Auto-Journal, Sport Auto, Sport Auto Classique, Auto-Journal Évasion, Auto-Journal 4x4 and Auto Plus Classiques).
4. In the communication services sector, Axel Springer, through its subsidiaries aufeminin³, bonial, idealo and My Little Paris, edits thematic websites and, through its subsidiary Awin, provides intermediation services in the online advertising sector.
5. **Concept Multimédia SAS** (hereinafter “Concept Multimédia” or “Logic-Immo”) is a company incorporated under French law and owned by the company Spir Communication SA. It is primarily active in the property ads sectors online and in print media, as well as in IT services for real estate professionals in France.
6. In the online property ads sector, Concept Multimédia edits the portal *logic-immo.com*, as well as several websites dedicated to certain types of real estate, such as luxury properties (*lux-residence.com*), new properties (*neuf.logic-immo.com*), building plots and the construction of detached houses (*construire.logic-immo.com*) and seasonal rentals (*vacances.logicimmo.com*).
7. In the property ads for print media sector, Concept Multimédia edits two magazines: Logic-Immo, a free fortnightly publication, and Lux Résidence, a magazine dedicated to prestigious real estate properties.
8. In the IT services for real estate professionals sector, Concept Multimédia provides, through its subsidiary Rodacom, multi-publication and website creation services, as well as tracking and traffic management tools.

³ On 12 December 2017, TF1 Group and Axel Springer announced the submission of a firm offer by TF1 Group to acquire the majority stake of Axel Springer (78.4% of the share capital) in aufeminin Group.

B. THE OPERATION

9. The notified transaction was formally agreed via a memorandum of understanding dated 25 April 2017, to which a draft share transfer agreement has been appended.
10. Insofar as it entails the acquisition by Axel Springer of 100% of the capital in Concept Multimédia, the transaction equates to acquiring sole control of Concept Multimédia by Axel Springer.
11. The companies involved have a total combined pre-tax global turnover of over 150 million euro (Axel Springer: [...] euro for the financial year ended on 31 December 2016; Concept Multimédia : [...] euro for the same financial year). Each of these companies recorded a total pre-tax turnover in France of over 50 million euro (Axel Springer: [...] euro for the financial year ended on 31 December 2016; Concept Multimédia : [...] euro for the same financial year). In light of the turnovers recorded by the companies concerned, the transaction does not fall within the scope of competence of the European Union. However, the control thresholds mentioned in I of article L. 430-2 of the *Code de commerce* have been exceeded. This transaction is thus subject to the provisions of articles L. 430-3 et seq. of the *Code de commerce* relating to mergers.

II. Delineation of the relevant markets

12. The parties are simultaneously present in the online property ads and advertising markets.
13. Moreover, Logic-Immo is the only company active in the print media (“paper” property ads), IT services for real estate professionals and media buying services markets⁴. SeLogger is, for its part, the only company present in the online advertising intermediation market⁵.
14. The transaction gives rise to overlapping activities on the online property ads market (A) and the online advertising market (C). The “paper” property ads market, which is a related market affected by the transaction in which only Logic-Immo is active, is also affected by the transaction (B).

A. THE ONLINE PROPERTY ADS MARKET

1. THE PRODUCT MARKET

15. Ads are published both in print media and on websites (“online”).
16. Past national decisions consider that these two means of publication constitute different markets⁶. Moreover, these past decisions segmented these markets by type of property or

⁴ The Media Buying Services market comprises several activities, including media strategy development, strategic advice on media strategy and media buying (see decisions of the European Commission COMP/M.7023 Publicis/Omnicom and COMP/M.3579 WPP/Grey).

⁵ On the markets for IT services for real estate professionals, media buying services and online advertising intermediation, the transaction implies no overlapping activities between the parties and, regardless of the segmentations considered in the previous decisions of the competition authority, the market shares of each of the parties does not exceed 10%.

⁶ See decision 10-DCC-152 of the Autorité de la concurrence of 3 November 2010 relating to the acquisition by Axel Springer AG of sole control of the company SeLogger.com through a public offering, the letters of the French Minister of Economy C2007-127 of 7 December 2007 to the lawyers of the company Groupe Hersant Média relating to a merger in the regional print media sector, and C2007-19 of 10 September 2007 to the lawyers of the companies Spir and Schibsted relating to a merger in the ads sector.

services covered by the ads, drawing a distinction between ads for cars, boats, property and jobs⁷. In this case, the parties are simultaneously present in the online property ads market.

17. The existence of such a market was also considered by the UK⁸ and German⁹ competition authorities.
18. Pursuant to these past decisions, the notifying party proposes to consider an online property ads market.
19. Before examining the possible segmentations of this market (b), it should be determined whether it is possible to consider a single online property ads market, or whether it is necessary to define two separate markets, corresponding to each of its sides, insofar as this is a two-sided market (a).

a) A single market or two separate markets?

20. A two-sided market links two groups of agents that can potentially gain from interacting with each other. A platform, or a broker, enables or facilitates the transactions by reducing their costs. This activity creates indirect externalities (or cross-side network effects): the benefit or the utility that an agent of a given group derives, depends on the number of agents in the other group.
21. The online property ads market comprises an upstream side, which connects advertisers¹⁰ and the portals, and a downstream side, which connects the portals and internet users. The property ads portals thus constitute intermediaries between the advertisers, which are trying to sell or rent properties, and internet users, who are searching for such properties. The relations between the advertisers and the portals, and between the portals and the internet users are characterised by cross-side network effects. The number of ads can cause an increase in the number of visits to a portal and, conversely, a portal that has a large number of visitors can attract a higher number of ads.
22. As recalled in the merger control guidelines of the *Autorité*, “[i]n the case of two-sided markets, the economic balance on a market cannot be assessed independently of the prevailing conditions on another market. Though separate, both markets operate interdependently, which is a specific feature that can be taken into account either at the market delineation stage or during the analysis of the effects of the transaction on competition and of efficiency gains”¹¹.
23. The examination of a two-sided market can thus be conducted by defining a single market with its two inseparable sides or by analysing the two sides separately as if they were two connected markets.

i. Reminder of the past decisions of competition agencies

24. The past decisions of competition authorities have always been based on a competitive analysis of a single online ads market.

⁷ See decision 10-DCC-152, as well as the aforementioned letters C2007-127 and C2007-19.

⁸ See the decision of the Office of Fair Trading of 26 April 2012, Anticipated merger between the Digital Property Group Limited and Zoopla Limited, ME/5233/11.

⁹ See the decision of the Bundeskartellamt of 20 April 2015 on the acquisition by Axel Springer of the company Immowelt AG, B6-39/15.

¹⁰ In the interest of clarity, the term “estate agencies” can be used in this decision instead of the term “advertisers”, which covers several categories of agents: private individuals, estate agencies, notaries, brokers, etc. The use of this term dispels any confusion with publicity advertisers.

¹¹ See the merger control guidelines of the *Autorité*.

25. In his letter of C-2007-19, the French Minister of Economy considered that “*in respect of ads for cars and boats, it is not [...] relevant to consider an audience for websites specialising in these fields*”, while noting that “*the website audience will however be used [...] as an element of consideration in respect of the competitive analysis*”. The minister also stated that “*This approach, which has been approved by the French Supreme Administrative Court (Conseil d’Etat), is in fact commonplace in the past decisions relating to the media, or even to any sector characterised by the existence of two-sided markets: the audience shall constitute an essential indicator of the market power of the operators on the various relevant online markets*”¹².
26. In its decision 10-DCC-152, the *Autorité* left open the issue of the exact definition of the online ads market insofar as the transaction examined did not raise any competition issues. It did, however, conduct a competitive analysis of the “*sale of ads over the Internet*”, without defining the audience market¹³.
27. More recently, the UK and German competition agencies also considered a single online property ads web portal market. In particular, in the aforementioned decision on the acquisition of Immowelt by Axel Springer, the German competition authority considered an online property ads portal market without considering each side of the market separately, primarily on the grounds that such platforms are designed to bring together two parties with largely identical needs.

ii. The position of the notifying party

28. Along the same lines as laid down in the decision-making practice, the notifying party proposes to define a single online ads market, on which demand is driven both by advertisers and internet users. Each of these user groups is said to be looking for the same offer: a property ads intermediation service.

iii. Assessment in this case

29. In this case, in accordance with the decision-making practice of the competition agencies and the position of the notifying party, the competitive analysis will be made of a single online property ads market. In any case, the delineation of separate markets for each of the sides of this market would not change the conclusions of the competitive analysis.

b) Segmentation of the online property ads market

30. The exact delineation of the online property ads market entails determining whether the websites of the real estate professionals (i), as well as the seasonal rental ads websites (ii), should be included. The question as to whether there should be a segmentation by type of advertiser (iii) and by type of property (iv) is also relevant.

i. Determining whether the websites of real estate professionals should be taken into account

◆ The position of the notifying party

31. According to the notifying party, some estate agency websites exert significant competitive pressure on online property ads portals. It explains that estate agency networks, such as Century 21, Orpi, Nexity and Laforêt, spend significant sums of money on enhancing their visibility in

¹² See the aforementioned letter C2007-19.

¹³ See the aforementioned decision n° 10-DCC-152.

order to secure new mandates with potential sellers and/or tenants and to attract visitors to their own websites. The gross advertising expenditure of the Century 21, Orpi and Laforêt networks is indeed significant. In absolute terms, the advertising budget of Century 21 and Orpi is higher than that of certain portals, such as PAP, Bien'ici or Logic-Immo. The audience of the websites of estate agency networks, such as Orpi or Century 21, is also comparable to that of large online property ads portals. By way of illustration, in January 2017, the websites of Orpi and Century 21 attracted respectively 1,095,000 and 1,015,000 hits compared to 1,671,000 for AVendreALouer and 1,366,000 for Explorimmo¹⁴.

32. However, despite this information, the notifying party has not included the estate agency websites (at least those of the major networks) in the relevant market.

◆ Assessment in this case

33. Since close to three-quarters of the estate agencies are independent agencies¹⁵, it is difficult for them to gain a reputation via their own website or to generate a big enough audience, unlike the networks of the aforementioned major estate agencies.
34. Moreover, several third parties have played down the importance of the use of the websites of estate agencies by internet users for their property purchase or rental searches. According to the *Union des Syndicats de l'Immobilier* (Trade Union of Real Estate Workers, hereinafter “Unis”), “it is very unusual for an internet user to go directly to estate agency websites, they tend to consult the general-interest portals” whereas, according to the Le Bon Coin, “only occasionally does a user consult the website of a network of estate agencies”. The estate agency websites and the property ads portals actually offer two different services, insofar as the website of an estate agency only advertises properties for which it has a mandate, whereas a property ads portal publishes as many ads as possible from many different agencies or private individuals.
35. The hearings conducted by the case team revealed, in this respect, that the exhaustive nature of the supply of property ads is the priority search criterion for internet users, who will therefore consult a portal rather than the website of an estate agency. Although estate agency websites are consulted, it is mainly in addition to their consultation of portals. A competitor of the parties explains: “An internet user will tend to go to a website with an exhaustive offer, then, to supplement this, the user may consult the website of the agency to find out more about the property. Estate agency websites are not exhaustive enough for internet users, whose searches are mainly local in nature. The Médiamétrie data indeed demonstrate the predominance of the portals. There is only indirect competition between an agency and a portal”. The answer of Bien'ici, a portal created among others by estate agency networks, to the question “Are you competing directly with estate agency websites?” is enlightening in this respect: “Not at all, the two are complementary”. The complementarity of estate agency websites and portals, which is emphasised by internet users, is also observed in respect of advertisers. The estate agency network Arthurimmo explains: “Arthurimmo agencies can publish their ads on the national website and on their own agency website. But it is not possible to use solely these sites and cease use of the portals. The profession of estate agent is a specific one, it does not entail acquiring an audience; estate agents do not have sufficient knowledge to do this. You have to use specialised tools, such as portals. They are complementary professions”.

¹⁴ Médiamétrie.

¹⁵ <https://www.observatoiredefracnise.fr/dossier-thematique/immobilier-en-france.htm>

36. Consequently, in line with the position of the notifying party, the *Autorité* considers that only property ads portals should be included in the relevant market, while leaving open the question of potential competitive pressure exerted by the websites of the major estate agency networks.

ii. *Determining whether seasonal rental ads websites should be taken into account*

◆ The position of the notifying party

37. The notifying party emphasises that players such as Airbnb, Homeholidays or Abritel, cater for seasonal rental ads only and “*are key players for advertisers and internet users alike*”. The main players in the seasonal rental ads sector are, however, not active on the online property ads market.

38. The notifying party acknowledges that “*in light of the predominance of the pure players in the seasonal ads sector*”, this market can be analysed separately.

◆ Assessment in this case

39. Seasonal rentals meet a specific demand from internet users and usually involve specific advertisers and specialised portals.

40. Seasonal rental ads require know-how in terms of the management of availability dates and features, or services designed to secure the user trust (booking, online payment into an escrow account, verified classified ad and advertiser).

41. As regards the advertisers, the main customers of *vacances.seloger.com*, a portal specialising in the online seasonal rental ads of SeLoger, are players in the hotel sector (camp sites, *gîtes*, other holiday establishments) rather than estate agencies, which nonetheless constitute almost all of the purchasers of property ads advertising space. The players in the hotel sector publish ads solely for the rental of furnished properties for a duration ranging from a few days to a few months, unlike with estate agencies, which also publish ads for the sale of properties and, when they are for rentals, ads that are usually for long-term rentals.

42. Consequently, only ads for property sales and long-term rentals are part of the market affected by the transaction.

iii. *Segmentation by type of advertiser*

43. On the upstream side of the online property ads market, advertisers are professionals or private sellers who publish property ads. The professionals are primarily estate agencies, but could also be notaries, brokers, property developers, constructors and property owners.

44. A distinction between professional and private advertisers has already been considered in the car and boat ads markets.¹⁶ The French Minister of Economy noted, for example, differences by type of advertiser in terms of the methods of marketing the ads (unit sales for private individuals and block sales for professionals) and the prices (two to three times more expensive for private individuals than for professionals). Moreover, professionals often benefited from dedicated tools for publishing ads and commercial assistance, which is not the case for private individuals.

45. The differences noted by the minister in the car and boat sectors can also be seen in the online property ads sector: professional advertisers indeed tend to use subscriptions, whereas private individuals placing ads tend to buy individual advertising spaces, which gives rise to a price difference between the two types of advertisers (the price per advertisement is higher for private

¹⁶ See the aforementioned letter C2007-19.

individuals than for professionals). Furthermore, private individuals and professionals differ in terms of how they use the portals. Private advertisers usually use the portals on an ad hoc and very limited basis (sale or rental of a single property), unlike professional advertisers. On this point, the notifying party acknowledges that multi-publications by private individuals, which entails publishing a classified on several portals, “*is probably less frequent than for professionals, particularly due to the fact that private individuals do not have access to multi-publication software*”.

46. The market test showed that almost all professional advertisers surveyed do not consider PAP, the main portal specialising in ads published by private individuals, to be a competitor of the parties. PAP also declares that it is not in “*direct competition*” with the parties, and that “*the profession is very different*”. It is true that property ads portals for private individuals do not accept ads from estate agencies. Consequently, as real estate professionals cannot publish their adverts on portals reserved exclusively for private advertisers, these portals are not in a position to exert competitive pressure on the price of the services linked to the publication of property ads by professionals.
47. This lack of competition between portals that accept professional advertisers and portals reserved for private individuals on the upstream side of the market is also reflected in several documents filed by the notifying party. In its last reference document, SeLoger states that property ads portals for private individuals “*do not affect the Group, which is not present in the ads segment for private individuals*”¹⁷. In a recent user satisfaction study, SeLoger did not consider PAP as a rival portal, whereas it did consider sites such as Le Bon Coin and Paru Vendu, which are websites that accept ads from both professionals and private individuals, as rivals. During their hearings, representatives of SeLoger and Logic-Immo did not, at any time, mention PAP as one of their competitors.
48. Given the above, a segmentation by type of advertiser publishing online property ads should be considered, as the transaction is likely to have an effect on professional advertisers only.

iv. Segmentation by type of property

49. Segmentation by type of property (old properties, prestigious properties, new properties/construction of detached homes, business properties) could be justified given the specific nature of the demands of internet users and also the service supply of the advertisers and the portals.

◆ The position of the notifying party

50. The notifying party challenges the relevance of such a segmentation. According to the notifying party, there is significant supply substitutability across the various property sub-categories, insofar as the main portals offer advertising spaces that allow advertisers to publicise several types of properties. The portals may choose to group together all properties on the same interface or develop portals specialising in certain types of properties. Moreover, even when the portals operate sub-sites dedicated to certain types of properties (such as, for example, *bellesdemeures.com* for so-called “prestigious” property ads), the vast majority of the ads published on these sub-sites are published on the main website (in this case, *seloger.com*).
51. According to the notifying party, the operation of sub-portals dedicated to certain types of properties is first and foremost a question of marketing positioning. These specialised portals seek to establish their reputation for a specific type of property, and therefore monetise a specific targeted audience to advertisers.

¹⁷ http://www.info-financiere.fr/upload/ECO/2010/04/FCECO015828_20100430.pdf

◆ Assessment in this case

52. The priority is to assess substitutability on the demand side. As recalled in the aforementioned guidelines, only in specific cases can the *Autorité* take account of substitutability on the supply side in order to delineate the relevant markets¹⁸.
53. In this case, on the demand side, internet users are looking for a specific type of property. Advertisers in fact tailor their adverts to the type of property. Many of the market test respondents state that each type of advert has specific characteristics, some of which being compulsory in order to comply with current regulations, while others are supplementary and aim to meet the expectations of advertisers and buyers. The adverts are thus specific to the type of property.
54. Moreover, a priori, substitutability on the supply side appears to be limited insofar as there are sites specialising exclusively in a specific type of property.
55. The relevance of a segmentation by type of property must therefore be analysed in more depth.

• Prestigious properties

56. Although there is no legal definition, or profession-wide definition, of prestigious properties, several criteria can be used to classify a property in this category, such as location (area, town/city), its facilities (floor, surface area, high-end materials, etc.) and its price, which will itself depend on the above criteria. The notifying party has suggested defining a prestigious property based on the criteria used by *belles.demeures.com*. On *belles.demeures.com*, the following are regarded as prestigious properties: properties on sale for over [...] euro outside Paris, for [...] euro in Cannes (06) and Île-de-France, and for [...] euro in Paris (75) and Neuilly-sur-Seine (92). For your information, *lux-residences.com* regards the following as prestigious properties: properties on sale for over [...] euro regardless of their location.
57. In addition to the specific demand for this type of property, this type of property is also characterised by the existence of both specialised advertisers and specialised portals. The notifying party acknowledges that “*there are a few estate agencies specialising in prestigious properties*”. This specialisation also exists on the portals market in the shape of websites such as *bellesdemeures.com*, *lux-residence.com*, *green-acres.com* and *propriété.lefigaro.fr*. According to Century 21, “*on the high-end markets, traditional websites are very rarely used. There are more specialised websites, which cater more for the expectations of sellers*”. Le Bon Coin explains that it is “*a closed market*”, where it has a very low presence: “*The websites that specialise in this type of property are quite different from “conventional” portals*”. *They cater for properties selling for 4 or 5 million euro, which require specific advertising, for example the use of videos.*” During its hearing, Logic-Immo explained: “*An estate agent will not put high-end products on the Le Bon Coin portal, as this would discredit the positioning of the advert*”.
58. The websites that specialise in prestigious properties also have dedicated sales teams, charge specific prices and apply special terms of sale (“TOS”). These characteristics are confirmed by the information communicated by the parties in relation to their own portals, as well as by the hearing of one of their competitors. The general terms of sale of the parties are more demanding for prestigious properties. For example, “*Belles Demeures reserves the right to refuse or suspend the publication of a property classified for a property that cannot be regarded as a character, charming or prestigious property*”, while *lux-résidence.com* requires the ads to be “*accompanied by a photograph and to [comply with] the editorial code*”. Logic-Immo explains

¹⁸ § 346 of the merger control guidelines of the *Autorité*.

that the “*publication conditions specific to Lux-residence stem from its positioning as a high-end portal intended for prestigious properties*”.

59. Lastly, ads for prestigious properties are the only ones that are not systematically multi-published on the main portal of each party, unlike ads for old properties.
60. These different facts could plead in favour of the existence of a separate segment for prestigious properties.
61. However, the current use of specialised portals by estate agencies leads to exclude the existence of a relevant segment for ads for prestigious properties.
62. The notifying party indicates that [50-60] % of the adverts on *bellesdemeures.com* are also present on *seloger.com* and that [20-30] % of the adverts published on *lux-residence.com* are also published on *logic-immo.com*. These figures only relate to adverts common to *seloger.com* (respectively *logic-immo.com*) and *bellesdemeures.com* (respectively *lux-residences.com*).
63. If one counts the ads for prestigious properties on the general-interest portals of the parties and those on their specialised portals¹⁹, we see that the general-interest portals actually have more ads for prestigious properties than their specialised portals. According to the notifying party, the general-interest portals thus account for almost 90% of all of the ads for prestigious properties published by professionals. The following table illustrates the number of ads for prestigious properties on three specialised portals and on three non-specialised portals belonging to the same groups.

Specialist portals	Number of prestigious property ads	General-interest portals	Number of prestigious property ads
Belles Demeures	18,787	SeLoger	102,318
Lux-residence	38,129	Logic-Immo	64,240
Propriétés-Le-Figaro	7,148	Explorimmo (Le Figaro group)	47,175

64. Moreover, between September and October 2017, the general-interest portal *leboncoin.com* published over 55,000 ads for prestigious properties²⁰, which is a higher number than the leading portal specialised in prestigious properties. The data obtained from the software [confidential] confirm that agencies that use portals specialised in prestigious properties and whose activity is focused primarily on this type of property also very often make use of general-interest portals.
65. Advertisers do not therefore appear to show any particular interest in publishing their ads on a portal that specialises in adverts for prestigious properties. Consequently, general-interest portals are indeed competitors of the portals that specialise in prestigious properties. Lastly, the prices charged by non-specialised portals do not vary depending on whether the advert relates to a prestigious property or a “standard” property.
66. Consequently, it is not justified to consider a specific segment for ads for prestigious properties.

¹⁹ A property classified on a general-interest portal has been classified as a prestigious property when it met the criteria that would have enabled it to be published on the *bellesdemeures.com*, a portal of *SeLoger* dedicated to prestigious properties.

²⁰ According to the criteria of *bellesdemeures.com*.

- New properties

67. New properties include properties on sale as part of new-build programmes and the construction of detached homes.
68. As with prestigious properties, there are advertisers and portals that specialise in new properties, which illustrates the specific demand for such properties among consumers. The advertisers include property developers, and many portals specialise in new properties, such as *selogerneuf.com*, *seloger.com/construire*, *neuf.logic-immo.com*, *construire.logic-immo.com*, as well as *explorimmonneuf* or *trouver-un-logement-neuf*.
69. Other information could plead in favour of a separate segment for new properties.
70. Firstly, there is a difference in terms of the type of adverts compared to other types of properties insofar as portals dedicated to new properties only publish ads for the sale of properties (rather than rentals).
71. Secondly, ads for new properties are specific since they must present both one or more dwellings and a programme, which requires the content and the search engine to be organised in a specific manner. Ads for the construction of detached homes also require a specific layout given the type of commercial offer that they entail: the advert must take account of the separation between the sale of the plot of land and the sale of the home to be built, as the building company usually does not have the mandate to sell a plot of land even though it needs to propose one to have a credible real estate project.
72. Thirdly, the common characteristic of ads for new properties is that they promote properties that, for the most part, do not yet exist. Know-how of 3D imaging and mapping is therefore important in order to make the advert attractive in both cases. Moreover, these properties mostly target buyers who wish to make a rental investment, which means that the content of the adverts and the search engine must incorporate information about eligibility for existing financial arrangements.
73. Lastly, even though there are no special terms of sale, the portals that specialise in new properties charge different prices and use different sales teams.
74. Nonetheless, as with prestigious properties, it transpires that ads for new properties are published both on specialised portals and general-interest portals.
75. The notifying party indicates that [90-100] % of the adverts published on *selogerneuf.com* are published on *seloger.com* and [90-100] % of the adverts published on *seloger.com/construire* are published on *seloger.com*. Similarly, [90-100] % of the adverts for new properties published on *neuf.logic-immo.com* are published on the portal *logic-immo.com*. Advertisers do not therefore appear to show any particular interest in publishing their ads for new properties on a specialised portal. Consequently, general-interest portals are indeed competitors of the portals that specialise in new properties.
76. Consequently, it is not justified to consider a specific segment for ads for new properties.

- Business properties

77. Business properties relate to sales and rentals of offices and business premises.
78. Business properties appear to be a specific product, which cater for a specific demand among internet users and which cannot be substituted by a search for another type of property.
79. SeLoger operates two portals specialised in commercial properties, *agorabiz.com* and *webimm.com*, whereas Logic-Immo does not operate a portal specialised in this type of

property. Moreover, SeLoger employs a team of five staff dedicated to this type of property and charges specific prices.

80. Apart from the portals of SeLoger, a large number of other portals specialise in ads for business properties, such as *bureauxlocaux.com*, *transactioncommerce.com*, *geolocaux.com* and *placedescommerces.com*.
81. This information could plead in favour of a separate segment for commercial properties.
82. Nonetheless, as with prestigious properties and new properties, ads for business properties are published both on specialised portals and general-interest portals.
83. The notifying party indicates that [90-100] % of the adverts published on *agorabiz.com* and *webimm.com* are published on *seloger.com*.
84. It also notes that the general-interest portal *leboncoin.com* publishes around 55,000 adverts for offices and business premises, whereas the specialised portals of SeLoger *webimm.com* and *agorabiz.com* list around 60,000 adverts altogether. Advertisers do not appear to show any particular interest in publishing their ads on a portal that specialises in ads for business properties. Consequently, general-interest portals are indeed competitors of the portals that specialise in business properties.
85. Consequently, it is not justified to consider a specific segment for ads for business properties.
86. To conclude, the competitive analysis will be made of the online market for property ads published by real estate professionals, including all types of properties.

2. THE GEOGRAPHICAL MARKETS

87. The French decision-making practice considers that the online ads market has a national dimension due to the characteristics specific to this type of publication, but that a local dimension must nonetheless be considered in the competitive analysis insofar as the internet user searches for a property in a specific local area²¹.
88. In the aforementioned letter C2007-19, the French Minister of Economy considered that “*the characteristics of Internet [advocated] for a broad geographical definition*”, while stating that “*in the online market for the sale of advertising space for car ads, a number of demand-side characteristics could lead to this approach being diluted*”. In this respect, the minister noted that “*the main objective of demand when space is purchased [...] is to sell properties that are not marketed across the country, from one end to the other*”, that “*the relationship [...] between the potential seller of the vehicle [...] and the potential buyer implies a meeting*”, which implies a travel cost for the potential buyer, which tends “*to limit his interest in ads to an area corresponding to his département or his region*”, and that “*generally speaking, the websites offer internet users a search tool with a filter by département*”. The minister also noted that “*separate geographical markets for the same product market have already been defined, i.e., a national market and local markets based on the existence of different demands*”.
89. In aforementioned Decision 10-DCC-152, the *Autorité* picked up on this approach and applied it to the online property ads market. It recalled that the “*the market for the online sale of ads was a national market*”, but that “*a local dimension [...] should be taken into account in the analysis*”. *In fine*, the question of the geographical delineation was left open insofar as this did not change the conclusions of the competitive analysis.

²¹ See the aforementioned decision 10-DCC-152 and letter C2007-19.

90. The decision-making practice of other competition agencies also considered a dual dimension for the online property ads market. In its decision *Digital/Zoopla* of 2012²², the UK competition authority noted that there was “*very little geographical substitutability in terms of the demand for portals*” insofar as “*estate agencies usually publish adverts for their local area only*” and “*the internet users search for properties within a limited geographical area*”. On the supply side, the UK competition authority noted the existence of regional portals and differences in terms of market shares and prices for the national portals depending on the regions. It concluded that “*it might be appropriate to consider local or regional issues*”. Nonetheless, it conducted an analysis at national level, insofar as its conclusions at local level would be the same.
91. Lastly, in its recent decision *Just Eat/Hungryhouse* of 2017²³, the UK competition authority conducted a dual analysis at national and local levels within the framework of a case involving online meal order platforms. It noted that, although factors such as price determination and advertising campaigns were primarily decided at national level, the competition conditions nonetheless vary at local level, particularly due to the local nature of demand and the presence of competitors in certain areas only.
92. The notifying party challenges the decision-making practice and proposes to consider only a national dimension, which would include the local portals. According to the notifying party, (i) with the exception of SeLogger, the portals apply a single pricing system at national level, (ii) thanks to internet, all the portals are accessible nationwide and (iii) the advertisers can publish their adverts on both national and regional portals.
93. However, the investigation showed that the decision-making practice of the competition authorities are relevant to this case: although a national delineation must be considered, the competitive analysis must take account of the effects of the transaction at local level.
94. As regards the local dimension, the observations in past decisions are still relevant. The local nature of demand, both on the part of the internet users and the advertisers, is an essential criterion: location is one of the intrinsic features of a property sought by internet users, and the advertisers, the vast majority of whom are independent agencies present at local level, publish adverts in a specific geographical area.
95. Moreover, the performances of the national portals vary significantly at local level. Firstly, in terms of volumes of adverts, the national classification of portals does not hold in all regions. The investigation showed that Le Bon Coin has a lower audience in Île-de-France than in the other regions. For example, Le Bon Coin has an audience market share of around 33% at national level, whereas this share is only 24% in Île-de-France. Le Bon Coin acknowledged that it was “*a little off the pace in this geographical area*”. Similarly, Foncia stated: “*Le Bon Coin is a key player in certain areas, such as rural areas and small cities like Béziers, Grenoble, and Toulouse. However, it has a fairly weak footing in Île-de-France.*”
96. The local nature of some portals is also taken into account by Concept Multimédia: “[O]nly present in Brittany, the Pays-de-la-Loire and Basse-Normandie, Ouestfrance-Immo obviously has greater penetration in its historical geographical area and it is only in these areas that there can be real competition with Logic-Immo”. This strong local footing is said to be an incentive for internet users to turn to the regional portals likely to be able to meet their demand in a specific geographical area.
97. The differences in terms of the performances of the portals are also reflected by the difference in terms of pricing and shifts in demand.

²² See aforementioned decision of the Office of Fair Trading (“OFT”) *Digital/Zoopla*.

²³ See decision of the Competition and Markets Authority (« CMA »), *Just Eat/Hungryhouse*, 16 November 2017.

98. Contrary to the claims made by the notifying party, SeLoger is not the only portal that charges different prices depending on the geographical zone in which the properties are located. Most of the competitors interviewed in the market test also said that they adjusted their prices according to the audience that they are able to secure by geographical area. For its part, Logic-Immo stated during its hearing that it possessed national price lists, but that it tailored its discounts to the local context: “[Confidential].” It then stated that “[Confidential].”
99. The price list of SeLoger is broken down into [...] geographical areas, ranging from area [...] (the most expensive) to area [...] (the least expensive). The notifying party argues that the price discrepancies observed do not correlate to the level of the market shares of SeLoger, but instead are said to be the result of exogenous factors, such as the local real estate market and its dynamism. Thus, the regions where SeLoger has a market share of over 40% (by value) comprise [...]. However, at the level of the *départements*, there is a correlation between the market share of SeLoger in terms of numbers of adverts and the price zone²⁴. [Confidential]. Moreover, the notifying party stated that it “*reviewed the geographical zoning to take account of the changes to its offer and its performance in certain areas*”, and mentions nowhere real estate prices as being a factor of change. The notifying party in fact provided no internal document attesting to the fact that the dynamism of the local property market is taken into account. In any case, the price differences observed by region, which are quite significant, do not lead to shifts in demand to pricing zones where the prices are lower, which points clearly to a local dimension on the market.
100. Moreover, the analyses provided by the notifying party highlight differences in terms of shifts in demand between the national and local levels: for example, although, at national level, the shifts from SeLoger to Logic-Immo stand at around 3%, they can reach 9% in Haute-Normandie and 6% in the regions of Languedoc, PACA and Picardie.
101. Lastly, several internal documents of the parties, as well as statements by third parties, mention analyses by local geographical area.
102. Firstly, SeLoger conducted a study in June 2017 of reputation and satisfaction indicators, which highlighted significant discrepancies between [...] areas. Moreover, in a presentation made by SeLoger to the executive committee of Axel Springer in September 2017, SeLoger mentions a competitive analysis conducted at regional level to study the impact of this merger:
[Confidential]
[Confidential].
[Confidential].
103. However, the two areas identified in this document as being areas where the new entity will have a very high number of adverts, i.e., the regions of Île-de-France and Provence-Alpes-Côte d’Azur (“PACA”), were highlighted in the market test. For most competitors and for some customers, the impact of the transaction would be particularly significant in these regions.
104. Therefore, in light of this information, the competition conditions do not appear to be sufficiently homogeneous nationwide to examine the effects of the transaction at national level only.
105. The analysis conducted at national level does not however take account of portals that only publish adverts at local level. Indeed, the market test revealed that advertisers use local portals more to supplement national portals than to substitute for them. The notifying party also

²⁴ At “*département*” level, only the market shares in terms of numbers of adverts are available.

acknowledges that advertisers consider the regional alternatives when “*the regional portals [have] a sufficiently large audience*”. However, as a general rule, this condition is not met, as the regional portals do not have large audiences. Only *Ouestfrance-immo* has an audience that is comparable to that of national portals, such as *Explorimmo*, while even this portal focuses on a number of regional areas. Despite this audience, it is not regarded as a competitor of the parties: according to an internal document of Concept Multimédia, “*as Ouest-France Immo is solely a regional player, it is not included in the analysis of competitors [Ed: at national level]*”.

106. To conclude, the geographical market of property ads must be defined at national level and exclude portals that publish adverts for properties located in a single sub-national area. Nevertheless, the competitive analysis will take account of the effects of the transaction at local level²⁵, while taking account of the competition exerted by all portals (national and local). In any case, the question of geographical delineation can be left open insofar as the conclusions of the competitive analysis are the same regardless of the assumption considered.

B. ADS MARKETS IN THE PRINT MEDIA SECTOR

107. Logic-Immo publishes a free property ads magazine, Logic-Immo, and a ads magazine for prestigious properties, Lux-Résidence, which can be purchased in shops, but is primarily distributed free-of-charge, mainly in hotels and at golf courses ([80-90] % of the magazines printed are distributed free-of-charge²⁶). SeLoger, however, does not publish any property ads magazines²⁷.

1. THE PRODUCT MARKETS

108. In the print media sector, the competition agencies draw a distinction between national print media, regional print media, free print media, magazines and specialised print media²⁸.
109. As regards free print media, they consider that it is relevant to draw a distinction between free print media with editorial or informative content and free advertising print media.
110. Lastly, regarding more specifically free advertising print media, a sub-segmentation was effected in order to distinguish property ads from job ads²⁹.

²⁵ In most cases, the notifying party has only been able to provide estimations at regional level. As a more detailed local level study has not been possible, the competitive analysis will thus be conducted at the regional level.

²⁶ The notifying party also stipulates that publication of *Lux-Résidence Paris* will end in January 2018. This will further increase the share of copies distributed free-of-charge, as it is this Parisian version of the magazine that sells the most copies in shops.

²⁷ SeLoger ceased publication of its property ads magazine “*Belles Demeures*” - which was not free-of-charge - in 2016.

²⁸ See, for example, European Commission decision COMP/M.3420, GIMD/Socpresse, 16 June 2004, the opinion of the Conseil de la concurrence 05-A-18 of 11 October 2005 relating to the acquisition of the Pôle Ouest of the company Socpresse and the goodwill of the SEMIF by the company SIPA, letter C2007-27 of the French Minister of Economy, Finance and Employment of 28 August 2007 addressed to the lawyers of BFCM and L'Est Républicain relating to a merger in the publishing sector and the decisions of the Autorité de la concurrence 13-DCC-46 relating to the acquisition of sole control by Rossel Group of the companies of the “*Champagne Ardennes Picardie*” division of the Hersant Media Group, 15-DCC-63 of 4 June 2015 relating to the acquisition of sole control of the Journal Midi Libre by the company Groupe La Dépêche du Midi and 15-DCC-189 of 23 December 2015 relating to the acquisition of joint control of the company 20 Minutes France by the company Rossel et Cie and SIPA.

²⁹ See letter C2008-40 of the French Minister of Economy, Industry and Employment of 11 August 2008 to the lawyers of the company S3G relating to a merger in the free print media sector.

2. THE GEOGRAPHICAL MARKETS

111. According to the decision-making practice of the competition agencies, the geographical dimension of the print media markets corresponds to their distribution zone³⁰. Thus, the markets for the publication of print media will have a national, regional, *départemental* or *sub-départemental* dimension depending on their distribution zone.
112. In this case, the magazine Logic-Immo comprises 33 versions distributed at *départemental* or *sub-départemental* level. The magazine Lux-Résidence comprises three versions, Lux-Résidence Paris, Lux-Résidence Provence and Lux-Résidence Côte d'Azur, each of which is distributed nationwide.

C. ONLINE ADVERTISING MARKETS

1. THE PRODUCT MARKETS

113. The parties are simultaneously active in the online advertising sector insofar as the websites that they operate sell advertising space.
114. The online advertising sector comprises two different services: search advertising and display advertising. Search advertising is displayed in proximity to the results of searches made by internet users on online search engines, and is selected on the basis of the key search terms entered by the user. Advertising not linked to searches (display advertising) may appear on any web page and is contextual, i.e., selected based on the content of the page on which it appears, or non-contextual.

a) Segmentation of the online advertising market into search advertising and display advertising

115. To date, the issue of the segmentation of the online advertising market has not yet been addressed by the European Commission³¹. The *Autorité*, for its part, has not excluded, at the stage of the examination of interim measures to curb anti-competitive practices, the fact that online search advertising could constitute a separate market within the broader online advertising sector³². In its decision authorising the acquisition of SeLoger by Axel Springer, the *Autorité* also conducted a competitive analysis of a potential online display advertising market³³.
116. The greater part of the market test respondents consider that a distinction should be drawn between search advertising and display advertising insofar as the former allows a direct link to be established whereas the latter is more akin to brand communication.
117. The notifying party contests this segmentation insofar as it does not believe it reflects the current market reality in light of the developments to display advertising, which allow for more

³⁰ See, for example, the aforementioned decisions 15-DCC-63 and 15-DCC-189.

³¹ See European Commission decisions COMP/5727 of 18 February 2010, Microsoft/Yahoo Search Business and COMP/M.4731 of 11 March 2008, Google/Double Click.

³² See Decision of the *Autorité de la concurrence* 10-MC-01 of 30 June 2010 on the application for interim measures submitted by the company Navx.

³³ See the aforementioned decision n° 10-DCC-152.

precise targeting of internet users based on their profiles, online behaviour and browser histories.

118. Many performance marketing specialists, such as DoubleClick, acquired by Google³⁴, aQuantive, acquired by Microsoft, BlueLithium, acquired by Yahoo, or Criteo, in partnership with Logic-Immo, provide advertisers with features that allow them to target the audience for their advertising based on the areas of interest of the internet users, which can be deduced from their online behaviour. Thanks to the information about internet user behaviour collected by these companies, they can offer advertisers advertising space on websites that their target audience browses, even though these websites have no link with the advertiser's sector of activity.
119. Moreover, the *Real Time Bidding* or "RTB" systems enable an advertising space to be allocated to an advertiser at the very moment the internet user is consulting a web page. Within the framework of RTB, the advertiser bids for advertising targets without knowing in advance on which medium its advert will be published. RTB thus enables the advertiser to multi-publish its advertising on a large number of websites: it is the internet user profile rather than the medium on which the advert is published that is sought after. Website publishers set limit prices based on the characteristics of their advertising spaces (size of the banner, context of the web page). The price is then determined by the bidding process based on the characteristics of the internet user (place and time of the viewing, browser habits, etc.) thanks to increasingly precise targeting criteria. The notifying party states that RTB technology amounted, in 2015, to 40% of display investments on the internet in France.
120. Lastly, re-targeting allows advertisers to reach their targets on all websites. This technique, which is deployed with the help of cookies, entails offering the internet user adverts that relate to a website that he has previously visited. In its opinion 10-A-29 of 14 December 2010 on the competitive functioning of online advertising, the *Autorité* noted that, according to advertisers, this tool enables them to "*target the internet users that have not made an immediate purchase*". This possibility is also offered by Facebook, which can target the advertising audience of the advertisers using the internet user data collected.
121. In this case, as the parties are only active in the online display advertising sector, the competitive analysis will be conducted on this market, insofar as the conclusions remain unchanged regardless of the delineation considered.

b) A market segment for advertising limited to web pages dedicated to property

122. In 2007, the French Minister considered the existence of a market for the sale of advertising space on web pages dedicated to cars (including web pages publishing car ads or other types of content relating to the automotive sector)³⁵.
123. In light of this decision-making practice, it is relevant to consider the question of a market segment for advertising limited to web pages dedicated to property.
124. However, in this case, it is not relevant.
125. The functioning of online markets has changed since 2007, in particular in terms of the technologies used to target internet users (see above). In this respect, the notifying party argues that considering such a segmentation would lead to the inclusion in the market of advertising

³⁴ See the aforementioned decision COMP/M.4731.

³⁵ See the aforementioned letter C2007-19.

that has no link to real estate, but which relates to previously visited websites (re-targeting), or advertising that targets internet users browsing pages dedicated to property for reasons relating to their sociological profiles (age, location or social and professional category). It and would lead at the same time to the exclusion from the market of advertising relating to real estate that is published on general-interest sites or relating to another topic.

126. In addition, if such a segmentation had to be considered, it would not, *in fine*, raise any competition concerns given the very large number of websites that have sections dedicated to real estate: as along with the ads portals (specialised in property ads or otherwise, such as Le Bon Coin, Explorimmo, PAP, AVendreALouer and Bien'ici), the market would comprise websites of real estate professionals, the property sections of websites operated by the main national and regional daily print media companies, web pages dedicated to home insurance or mortgage products. Thus, based on the assumption that the prices of advertising space on the portals of the parties would increase, advertisers wishing to publish their adverts on web pages dedicated to property would have a large number of alternatives at their disposal.
127. Consequently, it is not relevant, in this case, to consider an advertising market segment restricted to web pages dedicated to real estate.
128. To conclude, in this case, the competitive analysis will be conducted into the online display advertising market.

2. THE GEOGRAPHICAL MARKETS

129. The European Commission considers that the online advertising market can be delineated on the basis of national or language borders within the European Economic Area³⁶. The same conclusion applies to markets corresponding to the search and display segments.
130. The *Autorité* also considered that a potential online search advertising market would, a priori, have a national dimension due to the language and cultural barriers³⁷.
131. The market test respondents confirmed the national dimension of the online advertising market.
132. Consequently, the competitive analysis of the online advertising markets will be conducted at national level.

III. Competitive assessment

133. In respect of the activities of the parties, the competitive analysis will be made of the online property ads market (A) and the online advertising market (B).

³⁶ See aforementioned decisions COMP/4731 and COMP/5727.

³⁷ See the aforementioned decision 10-MC-01.

A. THE ONLINE PROPERTY ADS MARKET

134. Several types of anti-competitive risks have been identified. In respect of the online property ads market, the following risks should be examined: increased prices for property ads services, competitors being excluded from the market and coordination of competitive behaviour. Additionally, the conglomerate effects on this market and on the market for property ads in the print media sector, in which only Logic-Immo is active, will also be examined in this section.
135. Before setting out the details of these analyses (3.), the characteristics of the market (1.) and the criteria guiding the competitive analysis (2.) are presented.

1. THE CHARACTERISTICS OF THE MARKET

a) The functioning of the market

i. « Multihoming » (*multi-publication and multi-consultation*)

136. The online property ads market for real estate professionals is characterised by a multihoming phenomenon on each side of the market. This entails advertisers publishing adverts on several portals (multi-publication) and internet users performing searches on several websites (multi-consultation).
137. Thus, some 50% of Logic-Immo visitors consult four other portals (three other portals for visitors to SeLoger). The low cost of making searches fosters multi-consultation by internet users, most of whom set up alerts enabling them to receive directly and free-of-charge the ads for the properties they are looking for. This reduces the search time.
138. In respect of estate agencies, multi-publication manifests itself in two ways: an agency may publish (i) an identical classified on different portals (i.e., “common ads”), or (ii) different ads on different portals. Multi-publication by professional advertisers is facilitated by software offering specific services, which enable advertisers to enter their adverts just once and to publish them automatically on several portals. The notifying party has thus provided multi-publication data from the software [confidential]³⁸. Most estate agencies that are customers of [confidential] use between three and five portals to publish their adverts, and some [40-50] % (i.e., [60-70] % of the flow of adverts by [confidential]) publish their adverts on at least four portals³⁹.

ii. *The different types of contracts*

139. The parties conclude contracts with integrated networks of estate agencies, franchise networks and independent estate agencies (outside the networks).
140. As regards the integrated networks of estate agencies (for example, Foncia and Orpi), the heads of the networks conclude a single contract with one or more portals. These contracts provide for the purchase, by the head of the network, of a certain number of spaces for property ads and related visibility services for all of the agencies in their network. They also establish the price for all of the spaces and services purchased. The head of the network places all of the orders on behalf of the agencies in the network. The agencies are sometimes entitled to subscribe to

³⁸ As at 12 July 2017, this software listed 2,651 advertisers, i.e., less than 10 % of the total estimated number of estate agencies in France (where there are around 30,000 estate agencies : <http://www.observatoiredefracnchise.fr/dossier-thematique/immobilier-en-france.htm>).

³⁹ This obviously overestimates the practice of multi-publishing due to the selection bias.

certain additional products via the portals directly. These products are charged to them separately and are subject to a separate contract.

141. As regards the franchise networks (for example, L'Adresse and Laforêt), the heads of the networks conclude a framework contract with one or more portals, which establishes preferential pricing conditions for a minimum number of property ads and related visibility services. If the franchised agencies decide to conclude a contract with the portal, they benefit from the preferential pricing conditions negotiated by the head of their network. In this case, they can place their orders directly with the relevant portals and are invoiced in their own name for the orders placed. However, they are still free to purchase ads advertising space from competitor portals with which their heads of network have not signed framework contracts.
142. As regards independent estate agencies, their relations with the portals are, in principle, based on the general terms and conditions of the latter, which apply to all advertisers. The subscription prices are those applicable on the day of conclusion of the contract.

iii. Use of portals compared to the use of estate agencies

143. The development of new technologies and their increasing daily use by consumers have prompted real estate professionals to adjust their communication strategy. In order to enhance the visibility of their property ads, most estate agencies now publish their ads on property ads portals. This does not mean, however, that these agencies have abandoned their own internal tools; they merely seek to use several means of communication in order to attract as many quality prospective customers as possible.
144. The increasing, and almost compulsory, use of portals does not call into question the added value provided by estate agencies either, whether in terms of prospecting for properties or completing transaction-related administrative tasks. This is especially true since once the advert has been read on the portal, the internet user usually has to contact the agency if they wishes to visit the property. Internet users looking for a property also very often complete the steps they have started online in the actual estate agencies. These physical visits to the estate agencies are an opportunity for the customer to find out about the latest developments on the local property market they are interested in and about the practicability of his search; for the estate agency, this is an opportunity to make contact with a potential customer and to help them with their search by suggesting, where applicable, other properties.

b) The competitive positioning of the parties

i. SeLoger

145. SeLoger is the leading online property ads portal for real estate professionals in France in terms of numbers of adverts: in March 2017, 1,220,819 adverts were listed on *seloger.com*. SeLoger is also the second portal in terms of audience and rate of penetration among professionals: in January 2017, it had 6,111,000 hits according to Médiamétrie, whereas in September 2017, its rate of penetration was 65.2 % according to Batibiz.
146. The notifying party acknowledges that “*SeLoger has the broadest service offer on the market at the moment*”. SeLoger’s services include the following:
 - “Boost Alerte” (Boost alert), which enables an advertiser to incorporate an advert that has been published on the portal in a dedicated email alert.
 - “Contacts enrichis” (Enriched contacts), which enables an advertiser to receive the contact details of internet users looking for a property and who wish to get in contact with an estate agent.

- “Local Expert”, which enables an advertiser to publish advertising inserts when the internet users do searches by postal code.
 - “Avis immo” (Estate advice), which enables an internet user to find a rating of real estate professionals and real testimonials.
147. During its hearing, SeLogger emphasised the unique nature of its services: in relation to its “Contacts enrichis” service, its CEO said that “*this is found on no other website anywhere in the world*”, and in relation to “Boost Alerte”, “*this type of service is not found elsewhere at the moment*”.
- ii. *Logic-Immo*
148. Logic-Immo is the third biggest online property ads portal for real estate professionals in terms of numbers of adverts, audience and rate of penetration among professionals: in March 2017, 1,010,214 ads were listed on this portal, which attracted 2,854,000 hits in January 2017, and which had a penetration rate of 46 % in September 2017.
149. Logic-Immo considers that “*it distributes a portfolio of services that are different from that of its competitors, which are very media-oriented*”. Logic-Immo’s services include the following:
- “Cible Immo”, which enables an advertiser to “follow” the internet users that have visited the website *logic-immob.com* when they browse on other websites by displaying banners that correspond to their searches.
 - “Push Immo”, which enables an advertiser to follow up with prospective customers via emails sent to the internet users 30 minutes after his search on the portal, the content of which includes the properties viewed during his search, as well as other similar properties that could be of interest to the internet user.

c) The competitive positioning of the current main competitors

150. A large number of portals publish property ads. Some only publish property ads (specialist portals⁴⁰), while others publish various types of adverts, including property ads (general-interest portals).
- i. *The main specialist property portals*
- ◆ AVendreALouer
151. Up until November 2017, SoLocal Group owned the website AVendreALouer. On 27 October 2017, the acquisition of AVendreALouer by Le Bon Coin was announced and was completed in December 2017.
152. AVendreALouer is the fourth biggest online property ads portal for real estate professionals in terms of numbers of adverts and audience: in March 2017, 730,234 property adverts were published on this portal⁴¹, which attracted 1,671,000 hits in January 2017. AVendreALouer had a penetration rate⁴² of 28.5 % in September 2017.
153. AVendreALouer operates a main portal *avendrealouer.fr*, which publishes adverts for old properties, prestigious properties and offices and business premises, as well as *avendrealouer-*

⁴⁰ The term “specialist portals” is used in reference to portals that publish property ads placed by private individuals or real estate professionals. It differs from the term “specialised portals”, which refers to portals that publish property ads for one type of property only.

⁴¹ Freelance article dated 6 March 2017 published on <http://www.avendrealouer.fr/>.

⁴² The penetration rate of a portal is calculated by dividing the number of its customers by the total number of real estate professionals.

neuf.fr, which specialises in new properties and *avendrealouer-terrain.fr*, which specialises in the construction of detached homes. AVendreALouer offers ads advertising space to real estate professionals only. It offers advertisers services designed to enhance the visibility of the adverts published on their site and the reputation of the advertiser.

154. According to the notifying party, some of its services are very similar to those offered by SeLoger or Logic-Immo. For example, the retargeting products - “Target Agence” and “Target Email” - are similar to the products “Cible Immo” and “Push Immo” offered by Logic-Immo. The product “Target Agence” consists of displaying the ads of the advertiser on a website in the form of banners or advertisements after the internet user has made a search on one of the websites of AVendreALouer. When the internet user clicks on the banner, they are redirected to the website of the advertiser. The product “Target Email” consists of sending an advertiser-branded email to an internet user who has consulted ads on one of the websites of AVendreALouer presenting a selection of properties that meet their search criteria. When the internet user clicks on the email, they are redirected to the website of the advertiser. Lastly, the product “Publicité Locale” is very similar to the product “Local Expert” offered by SeLoger. When an internet user makes a search for a property located in a geographical area corresponding to the post codes selected by the advertiser, an advertiser-branded advertising banner is displayed on each results page.

◆ Explorimmo

155. Explorimmo is the fifth biggest online property ads portal for real estate professionals in terms of numbers of adverts and audience: in March 2017, 656,410 property ads were published on this portal, which attracted 1,366,000 hits in January 2017. Explorimmo had a penetration rate of 27.3 % in September 2017.
156. Explorimmo is owned by Le Figaro group. It operates several portals, including *explorimmo.com*, *propriété.lefigaro.fr* (specialising in prestigious properties), *explorimmoneuf.com* and *explorimmo-vacances.com*. It offers ads advertising space to real estate professionals and, to a much lesser extent, to private individuals. The visibility products are included in the subscriptions taken out by real estate professionals and can be paid for as an option for private individuals.

ii. *The main general-interest portals*

◆ Le Bon Coin

157. Le Bon Coin is the leading online property ads portal for real estate professionals in terms of audience and rate of penetration among real estate professionals: in January 2017, it had over 9.8 million hits whereas its penetration rate was 71.7% in September 2017. With over 1.1 million ads published in March 2017, Le Bon Coin is the second biggest online property ads portal for real estate professionals behind SeLoger.
158. Le Bon Coin is owned by the Norwegian conglomerate Schibsted, which recorded a global turnover of 1.7 billion euro in 2016. According to the notifying party, Schibsted is the leader in the ads sector in many European countries: Norway, Sweden, Spain, Austria, Hungary and Ireland. In 2016, Schibsted group recorded turnover growth of 16% in the ads sector⁴³.
159. According to the notifying party, Le Bon Coin is one of the most often consulted websites in France. The key words « bon coin » and « Le Bon Coin » are respectively the third and fourth

⁴³ 2016 Q4 report of Schibsted group, <http://hugin.info/131/R/2076662/781093.pdf>

most used key words according to Google Trends⁴⁴, behind “Facebook” and “Youtube”, but before “Google”, “Orange” and “météo”. Le Bon Coin is the fifth most consulted website in France with 23.6 million monthly visitors in July 2016 after Google (43.3 million), Facebook (39.4 million), YouTube (33.6 million), and Orange (23.9 million).

160. However, compared to other portals (especially those of the parties), the service offer of Le Bon Coin available to advertisers has so far hardly been developed. Le Bon Coin only offers in its “Boutique Immo” supplementary services such as having the classified moved up the list⁴⁵, the insertion of the “urgent” logo, the possibility of publishing additional photos or modifying the ad after its publication. The notifying party in fact acknowledges that the services offered by Le Bon Coin are “*still limited in number*”.
161. However, thanks to the acquisition of AVendreALouer, Le Bon Coin could offer new services. Its managing director, Antoine Jouteau, announced this publicly: “*the association of the general-interest portal leboncoin with this high-end specialist will allow for a very comprehensive range of services to be offered to professionals and private individuals while allowing us to strengthen our position in a strategic sector*”⁴⁶. In a radio interview dated 13 November 2017, he stated: “*we will be benefiting from teams that specialise in real estate and who will be developing cutting-edge services, especially for estate agents*” *We will also acquire know-how that we did not necessarily have before, for example in respect of user experience in real estate purchases*”⁴⁷.
162. Moreover, after this acquisition, Le Bon Coin could develop a new range of services dedicated to property developers and builders, which constitute an important market for property ads portals. According to Mr Jouteau, the acquisition of the sub-websites of AVendreALouer specialising in new properties and the construction of detached homes “*will allow us to accelerate and acquire know-how*”⁴⁸.

◆ ParuVendu

163. Paru Vendu is a general-interest portal with a property section and other sections, such as car sale ads, animal sale ads, ads to adopt animals and job offers. It is owned by Digital Virgo Media group. The portal publishes all types of property ads: sale and rental of old and new properties, construction of detached homes, offices and business premises, as well as seasonal rentals. Paru Vendu offers ads advertising space to professionals and private individuals. Professionals have to pay to place a classified, but it is free-of-charge for private individuals.
164. Paru Vendu is the sixth biggest online property ads portal for real estate professionals in terms of numbers of adverts and audience: in March 2017, 470,427 property ads were listed on this portal, which received 1,820,000 hits in January 2017. Its penetration rate with real estate professionals was 6.4% in September 2017.

d) New entrants

165. The notifying party emphasised the competition exerted by recently created portals, such as Bien'ici, Monbien.fr, Imoxo, Flatlooker, Morning Croissant and Somhome.

⁴⁴ Google Trends is a tool created by Google Labs, which indicates the frequency at which a term has been entered into the Google search motor and allows for these data to be viewed by region and by language.

⁴⁵ The moving up the list option allows an advertiser to place an ad that has already been published at the top of the list again.

⁴⁶ See: <https://corporate.leboncoin.fr/wp-content/uploads/2017/10/CP-leboncoin-A-Vendre-A-Louer.pdf>

⁴⁷ Interview with Antoine Jouteau, managing director of Le Bon Coin, broadcast on Radio Classique on 13 November 2017.

⁴⁸ <http://immomat.in/articles/portails-de-petites-annonces/leboncoin-rachete-avendrealouer.htm>

166. It is true that new players have entered the market insofar as a number of property ads portals have indeed been created: however, the investigation showed that the commercial success (in terms of reputation, turnover and audience) of these new entrants was fairly modest, with the exception of Bien'ici (see below). Although the online property ads market is characterised by fairly weak obstacles to market access, it nonetheless does comprise greater obstacles to market expansion: it is more difficult to achieve a sufficient audience and thus compete with established portals than to enter the market.
167. Most of the new entrants do not have a sufficient audience or a sufficiently high number of ads to be able to sustain their activity in the long term. Among the oldest new entrants (over three years), Paragence, Bientôt-vendu or Omni still have a limited audience whereas portals such as Somhome or LocatMe still publish a low number of ads. These very high risks of failure are confirmed by the CEO of SeLoger, who declared in December 2016: *“Each month, a new site is created. But they will go to the wall in a month or 2 years’ time”*⁴⁹.
168. Only Bien'ici can be regarded as a credible new entrant, which was also observed by the market test respondents. This portal was launched in December 2015 by real estate professionals in order to counterbalance the main market players, in particular SeLoger and Le Bon Coin. The shareholders of Bien'ici include the real estate company Nexity, agency networks, such as Guy Hoquet, Orpi, Century 21, Laforêt, Era, l'Adresse, Solvimmo, Foncia, Belvia immobilier, Citya immobilier and Square Habitat, real estate trade unions and professional associations, such as FNAIM (National Real Estate Federation), SNPI (National Trade Union of Real Estate Professionals), Unis (Union of Real Estate Trade Unions), FPI (Federation of Property Developers) and other players, such as Crédit Foncier de France, Crédit Agricole Immobilier, Kaufman & Broad, Icade and les Nouveaux Constructeurs.
169. Thanks to an aggressive pricing policy and, especially, to preferential access to the ads for its various shareholders, Bien'ici has quickly reached a stable volume of property ads of around 500,000 to 600,000 and had received 865,000 hits in January 2017. In recent times, the audience of Bien'ici has grown significantly since it reached 2 million hits in June 2017 and over 3 million hits in October 2017⁵⁰, partly thanks to a television advertising campaign launched at the start of the year.
170. This level of audience can also be explained by the innovative services offered by Bien'ici, i.e., advanced mapping and geo-location tools, which internet users find very useful. During the hearings, many players (FNAIM, L'Adresse, SeLoger, Logic-Immo) stated that these services constitute the added-value of Bien'ici compared to the existing portals. During their respective hearings, the parties also emphasised this competitive advantage. Logic-Immo also considers that this is an *“unfair advantage”*, insofar as *“the geo-location on Bien'ici is far more developed than on the other portals, as the major networks [of estate agencies] communicate detailed information about the location, hours of sunshine, local schools, hospitals”*. SeLoger also explains that Bien'ici is the best equipped portal in terms of mapping and geo-location, as its shareholders are less reluctant to communicate precise data relating to the properties that they are selling or renting.
171. Other services have recently been launched by Bien'ici, or will be very soon, such as interactive videos, virtual reality and searches by transport time (consultation of property ads by travel time from a given place for all means of transport)⁵¹.

⁴⁹ https://www.challenges.fr/immobilier/actu-immobilier/annonces-immobilierees-l-insolente-reussite-de-seloger-bousculee-par-leboncoin_442947

⁵⁰ <https://www.journaldelagence.com/1143875-nouveau-record-dauidence-bienici-com-plus-de-3-millions-de-visites-octobre-2017>

⁵¹ *Ibid.*

172. The utility of these new services has been mentioned by the press. In relation to a recent comparison of property ads portals, a journalist noted the following: *“All property search services are alike, there’s no doubt about it. Most of them operate using the same system of boxes to be ticked, but the recent Bien’ici portal offers a very visual and dynamic service based on a map used to make the search. There is quite simply nothing better on the market and the service even geo-locates the user so that it can suggest properties in the same sector (particularly practical via the app). The map displays the exact location of the properties, the rent, the sale price and even any nearby amenities (bicycles, restaurants, schools, etc.). A right-hand column displays the descriptions and information relating to the amenities. This concept is so great that we wonder why its competitors have not yet used the same concept. During this experiment, we also noticed that Bien’ici is now very popular, especially among the young generations”*⁵².
173. However, we should remain cautious as to the ability of Bien’ici, as a new entrant, to act as a maverick and stimulate competition on the market insofar as it is still behind the three main players on the market (in terms of audience, numbers of ads and turnover).
174. Bien’ici is still suffering from a lack of notoriety compared to the other leaders in the sector. In early 2017, SeLoger commissioned Kantar TNS to conduct a study on the following topic: *“Managing the ‘Agents’ Client experience in order to guarantee your position in the market in the face of competition from Bien’ici and Le Bon Coin”*. This study states that *“Bien’ici is still not emerging as a player”*. Similarly, the reputation barometer of Logic-Immo for May 2017 showed that, a year and a half after its launch, Bien’ici was still not known to internet users: no respondent cited this brand spontaneously, where 13% and 9% did so for SeLoger and Logic-Immo respectively, and only 6% of respondents recognised the brand from the logo compared to 62% for SeLoger and 50% for Logic-Immo.
175. The fact that the website is not well-known is confirmed by several market test respondents, such as the major estate agency networks L’Adresse and Foncia. L’Adresse summarised the situation as follows: *“Unfortunately, this website is not sufficiently well-known to the general public. The problem stems from the fact that the acquisition of traffic is costly”*. Le Bon Coin explains that *“the portal Bien’ici, which was developed by real estate professionals, suffers from a lack of audience, which is difficult to acquire”*.
176. According to those who responded to the market test, the new entrants cannot easily gain a reputation, either via paid referencing or via natural referencing. According to Orpi, *“specialists estimate that 15 million euro per year in marketing is needed over a period of 3 to 5 years in order to give legitimacy to a new portal”*. Therefore, significant finance is needed to obtain a reputation. However, the information collected during the investigation does not allow us to establish with certainty and in the medium term that the shareholders of Bien’Ici are prepared to make such investments on an annual basis. In addition, even after increasing its marketing budget and the number of communication campaigns, Bien’ici is well behind SeLoger and Le Bon Coin.
177. From the point of view of the estate agencies, calling on the services of Bien’ici does not appear to be an alternative to SeLoger, but instead to supplement the services of other portals. Bien’ici even acknowledged this during its hearing. As summarised by Laforêt, using the services of Bien’ici would be *“a militant step by estate agencies in the face of the established duopoly”*.
178. The *Autorité* also notes that Bien’ici’s entry onto the market has thus far only had a limited impact on the main portals. While SeLoger believes that it is difficult to measure the

⁵² <https://www.lesnumeriques.com/appli-logiciel/leboncoin-seloger-sites-pour-trouver-logement-a3363.html>

consequences of the arrival of Bien'ici insofar as its arrival has coincided with an upturn in the property market, Le Bon Coin states that its turnover has not fallen since the arrival of this new portal. Logic-Immo cites the losses incurred by Foncia as a result of the arrival of Bien'ici while at the same time stating that this loss of turnover has been offset by securing new customers.

179. A competitor summarises the impact that Bien'ici has had on the market in the following terms: *“At the moment, the only impact that Bien'ici has had is to have undermined the small portals, whereas its initial goal was to compete with SeLoger and Le Bon Coin. No estate agency can, at the moment, do without these two websites and, therefore, investing in Bien'ici will, as a matter of priority, be to the detriment of the small portals, regardless of the intentions of real estate professionals. The problem with Bien'ici is that it does not have a lot of traffic: it has ads, but this is not enough [...]. Real estate professionals are therefore obliged to stay with the majors in order to generate leads for their ads. A virtuous circle is required consisting of having ads and traffic in order to generate a return; there can be no imbalance between the two. If there are too many properties, but not enough traffic, estate agencies are disappointed, whereas if there are few properties, but a lot of traffic, internet users are disappointed. Ads spread in a fairly balanced manner across the whole country are needed in order to meet all the needs of internet users across France”*.
180. As recalled by Foncia, the difficulties encountered by Bien'ici, which was nonetheless created under the impetus of the main real estate advertisers, show how difficult it is to successfully penetrate this market.
181. In addition, the innovative services offered by Bien'ici were not unique on the market for very long. As announced publicly at the “SeLoger Ateliers” (SeLoger workshops), which were held in Paris on 14 September 2017, SeLoger has also offered, since the start of 2018, an improved version of the geo-location and mapping services provided by Bien'ici. In an interview in December 2017, Bertrand Gstalder stated that SeLoger was going to offer two new innovative services, i.e., *“Dessiner ma zone de recherche, [which] enables the internet user to define on the map his own personal search perimeter”* and *“La Recherche Isochrone/, which enables the internet user to search for the ideal place to live taking account of travel times for the whole family”*⁵³.
182. Consequently, even though Bien'ici's arrival and market growth are proven, the *Autorité* considers that the ability of this player to stimulate competition is limited at the moment.

e) Potential competitors

183. The notifying party has highlighted the potential competition exerted by Facebook, Amazon and Google on the property ads market in France. In particular, it highlights the fact that Facebook has already developed innovative tools enabling suppliers and seekers of properties to be put in contact with each other. These tools had hitherto only been available in some countries (US, Australia, UK and New Zealand), but, since August 2017, they have been available in France via its *Marketplace* platform, an ads portal, which includes property ads⁵⁴. According to Facebook, *“the homepage of Marketplace presents an organised list of products put on sale by internet users in their region. Internet users have the possibility of finding a specific item by using their search engine at the top of the page and by filtering the results by place, category or price. Internet users can also discover what is available in various*

⁵³ <https://www.journaldelagence.com/1144058-accompagner-au-mieux-les-agents-immobiliers-bertrand-gstalder-president-du-directoire-de-seloger>

⁵⁴ <http://immomat.com/articles/reseaux-sociaux-immo/annonces-immobieres-facebook-lance-enfin-sa-marketplace-en-france.htm>

categories, such as household products, electronic appliances, clothing or property (sale or rental ads). Internet users can use the integrated location system on the web page to change the region or choose another town/city”.

184. Logic-Immo compares Facebook’s entry strategy onto the property ads market to that of Le Bon Coin, which initially only displayed ads published by private individuals, then later accepted those published by agencies, which now account for [80-90] % of its ads.
185. The notifying party also noted that Amazon launched its online ads platform on the Indian market and that Google could easily enter the French market in light of the data relating to internet users and real estate professionals that this group has at its disposal.
186. It is true that the major global groups, especially Facebook, Amazon or Google, could break down any entry barriers more easily than other companies and develop their activity on the online property ads market thanks to their reputation and audience.
187. Nonetheless, the *Autorité* notes that, so far, no information has been communicated to it demonstrating that Amazon or Google will definitely enter the online property ads market in France in the short term. Yet, as the aforementioned guidelines of the *Autorité* stipulate, the time dimension is an essential factor when considering potential competition. The Commission’s guidelines on horizontal mergers state, in this respect, that the Commission *“examines whether entry would be sufficiently swift and sustained to deter or defeat the exercise of market power. What constitutes an appropriate time period depends on the characteristics and dynamics of the market, as well as on the specific capabilities of potential entrants. However, entry is normally only considered timely if it occurs within two years”* (underlining added).
188. To date, among these large groups, only Facebook actually offers a property ads service.
189. However, this market entry by Facebook must be assessed in light of the characteristics of the online property ads market. *Marketplace* is designed as a person-to-person sales product, but property ads published by private individuals are not part of the relevant market.
190. Moreover, real estate professionals (portals and agencies) do not, as a general rule, currently regard Facebook as a serious competitor to portals. As a general rule, they do not believe that Facebook, or, more generally speaking, GAF A, will be successful in this market⁵⁵ in the short term. Le Bon Coin thus recalls that, as well as requiring significant financial and technical means, *“you have to work on your brand, go and see your customers, etc. The image of Google and Facebook is not associated with the real estate market, consumers in no way associate Facebook with this activity. This is what will take time”*. Arthurimmo stated: *“It will take time for Facebook to replace the big players. [...]. It is possible even for Facebook not to succeed”*. On the probabilities of Facebook’s success, Bertrand Gstalder, CEO of SeLogger, is cautious: *“Is Facebook currently a major competitor in the property ads sector? No, because it has just started. Does Facebook aim to penetrate the market? Yes. Will they succeed? I have no idea”*.
191. If Facebook really represented a short-term threat to the economic model of the property ads portals, an international group such as Axel Springer would probably have launched studies into the potential effects of their market entry. However, even though several internal documents of Axel Springer analyse a potential arrival of Facebook on the ads market, including property ads, and do note a certain concern in this respect, they do not relate specifically to the French market. Neither SeLogger nor Axel Springer group has conducted a study on the impact of the launch of *Marketplace* by Facebook on the online property ads

⁵⁵ Google, Amazon, Facebook and Apple.

market in the countries where this service already exists and, a fortiori, in France. An internal document of Axel Springer dated 27 April 2017 also states that, although social networks are moving into the property ads market, they are “*not replacing the portals*”.

192. The arrival of Facebook appears to present more of a risk for general-interest portals (such as Le Bon Coin) than for specialist portals. A memo by Goldman Sachs in March 2017 states that Facebook will have a greater impact on the general-interest portals, as the specialist portals are “*less exposed*”. The press articles relating to the launch of *Marketplace* also identify Le Bon Coin as the player that would primarily be impacted by this new service⁵⁶. However, the Norwegian group Schibsted, which controls Le Bon Coin, indicated that it was not under threat⁵⁷. Its Chief Financial Operator stated in August 2017: “*This is an expected development and will not change our strategy in any way. Facebook’s Marketplace has had little impact on the markets in which it has already been launched*”⁵⁸.
193. Moreover, the characteristics of the property ads market are likely to slow down the development of Facebook, which will have to resolve a number of technical issues, such as the automatic publication of ads. An article by Immomatin dated February 2017 highlights in this respect: “*Despite Facebook’s strong innovation culture, its marketplace does not appear to be on the point of unseating the giants in the property ads sector. And with good reason: “The tool neither has an economic model or a professional functionality that allows, for example, for the automated publication of a large volume of ads”, explains Stéphane Caron*”⁵⁹ ⁶⁰.
194. Moreover, a competitor of the parties highlights the obstacles posed by property sector regulations and the organisational structure of the national market. As a general rule, the GAFA develop quickly in sectors where the same model can be rolled out in each country. However, the online property ads market, which is related to the property market, is specific to a country, such that significant local adjustments are required in order to develop activities on each market.
195. Le Bon Coin also emphasises the specific nature of the French property ads market, which will not make it easy for GAFA to enter the market: “*When there is a powerful national player in the online general-interest ads sector (which is the case with Le Bon Coin) or a very strong vertical portal (such as SeLoger), it is always harder to access the market, even for an internet giant*”. Thus, according to Le Bon Coin, “*the new entrant must be excellent and offer services that are even better than those already available, which will require the internet giants to make significant adjustments, which is not something they are used to doing*”.
196. As two competitors of the parties recall, no global player has so far succeeded in establishing a footing in the countries where it has tried to develop a property ads service.
197. Thus, in light of the information provided to the *Autorité*, Facebook’s *Marketplace* platform does not appear to be a substitute for the property ads portals.
198. However, the *Autorité* considers that the GAFA could constitute sources of competitive constraint. It is true that their financial capacity and a global reputation and audience, along with considerable opportunities for technological development, which can draw on the success

⁵⁶ <http://www.europe1.fr/technologies/avec-marketplace-facebook-lance-son-concurrent-de-leboncoin-3411638> ;
<http://www.01net.com/actualites/marketplace-facebook-lance-son-le-bon-coin-killer-en-france-1236786.html> ;
https://www.francetvinfo.fr/internet/reseaux-sociaux/facebook/commerce-en-ligne-facebook-nouveau-concurrent-du-site-le-bon-coin_2329333.html.

⁵⁷ <http://fortune.com/2017/08/15/facebook-marketplace-europe-schibsted/>

⁵⁸ <http://www.01net.com/actualites/marketplace-facebook-lance-son-le-bon-coin-killer-en-france-1236786.html>

⁵⁹ Managing director of *Prévisite*, an agency specialising in marketing.

⁶⁰ <http://immomatin.com/articles/reseaux-sociaux-immofacebook-un-futur-portail-d-annonces-immobilierees.htm>

of other services and their access to large volumes of data, enable them to develop their activities very quickly within a sector. Le Bon Coin explains, in this respect, that “*if, for example, Facebook invests the finance and has the will to penetrate the French market, we will be able to resist but, at the end of the day, we are not in the same league.*”.

199. Moreover, even though Facebook’s *Marketplace* has only been launched recently in France, the US example can be cited. In the United States, Facebook has concluded partnerships with the two main property ads portals, *Apartment List* and *Zumper*. Under the terms of these partnerships, hundreds of thousands of property rental ads published on these portals are currently multi-published on Facebook’s *Marketplace*⁶¹.
200. [Confidential].
201. In light of all of this information, the GAFAs, and Facebook in particular, do not constitute a constraint likely to discipline in the short term the competitive behaviour of online property ads portals for real estate professionals in France, but one should be cautious about their longer term impact as their penetration into the online property ads sector could be very swift.

f) The countervailing-power of demand

202. The notifying party considers that the competitive behaviour of the new entity will be disciplined by the strong negotiating power of its customers. This countervailing-power would be strengthened by multi-publications insofar as the advertisers could reallocate their investments to competing portals that they already use on a regular basis. The notifying party cites the example of the networks of estate agencies [confidential], which terminated their framework contract with SeLoger at the start of 2015. Moreover, according to the notifying party, the networks of agencies could develop their own sites and thereby “internalise” the property ads service by publishing the ads directly on their own websites. Lastly, the notifying party believes the new entity would be faced with a fairly concentrated demand, as the ten leading advertisers of each party together account for 10% of their turnover.
203. However, several facts relating to the case put into perspective the bargaining power of the advertisers in respect of the new entity.
204. Firstly, the vast majority of customers interviewed in the market test state that they have weaker bargaining power against SeLoger due, in particular, to the fact that it is a key player, which it is “difficult to do without”. It is true that, if the new entity were to increase its prices by 5 to 10%, most of the customers of SeLoger would reduce the number of ads published on this portal, but they nonetheless do not envisage leaving SeLoger altogether. This observation has also been confirmed by the results of an online questionnaire conducted by the *Autorité* (see above): if SeLoger were to increase its prices, 92% of customers would continue to use this portal even though most of the estate agencies would reduce the number of ads published on SeLoger (by 30% on average).
205. Secondly, the example of the networks of estate agencies [confidential], cited by the notifying party, tends to confirm the limits to the countervailing-power of demand in respect of SeLoger. Despite the termination of the framework contracts by these [confidential] heads of networks, the vast majority of their agencies ([confidential]) have continued to use SeLoger even though they benefited from less favourable terms and conditions. SeLoger acknowledges that [confidential].

⁶¹<http://www.adweek.com/digital/facebook-marketplace-housing-rental-unit-listings-apartment-list-zumper/>;
<http://www.mikedp.com/articles/2017/12/19/facebook-vs-zillow>; <http://www.mikedp.com/articles/2017/12/19/facebook-vs-zillow>.

206. Thirdly, as regards the risk of the internalisation by estate agencies of the service provided by the portals, it does not appear likely to have an effect on the market. The estate agency websites only advertise their own properties and do not meet the demand for exhaustiveness of the internet users, who are looking for, in the shape of sites that group together ads from several agencies, a “portal” (see above).
207. The networks of franchised estate agencies mention their “dependency” on SeLoger. Laforêt expresses it in the following terms: *“With a penetration rate in our network measured at [70-80] % by SeLoger in November 2016 and a goal of not falling below [70-80] % in the future, we cannot talk of interest, but rather of dependency”*. This dependency enforces acceptance of significant obligations: “[Confidential]”.
208. Moreover, even the major networks of integrated estate agencies do not have a significant bargaining power. Orpi explains: *“in 2014, SeLoger decided to increase its prices by [...] % even though this decision was not justified. We threatened to stop publishing all of our ads with SeLoger. This had no effect, as they are in a position to attack our agencies directly. Even in our position as SeLoger’s leading customer, our bargaining power is weak”*.
209. Only Foncia believes it has countervailing-power insofar as it is likely to shift its budget to Le Bon Coin. Thus, at the start of the year [...], Foncia refused to sign a new contract with SeLoger due to *“a price increase of [...] %”*, even though, according to it, *“nothing justified this”*. Foncia thus shifted its budget to other portals, in particular Le Bon Coin and Logic-Immo, which were used *“100% at national level”* (these two portals, which were initially only used in certain areas, were used across the whole of France). [Confidential]. Nowadays, the countervailing-power of Foncia appears to be far more limited insofar as this network already publishes all of its ads on Le Bon Coin and Logic-Immo will no longer constitute an independent alternative.
210. In light of all of this information, the *Autorité* considers that the advertisers do not hold sufficient countervailing-power to discipline the competitive behaviour of the new entity.

2. THE CRITERIA GUIDING THE COMPETITIVE ANALYSIS

211. In order to evaluate the market shares of the parties, the question of the assessment of their market power is relevant.
212. According to the aforementioned guidelines of the *Autorité*, *“[a]s a general rule, the market share of a company is calculated by taking its pre-tax turnover as a ratio of the pre-tax turnover of the market. However, in certain cases, it is not possible or of little relevance to take into account in the analysis only the market share by value calculated on the basis of turnover. Data relating to volumes or capacity can sometimes be used as an alternative measurement of the position of companies in the market”*⁶².
213. The notifying party proposed a competitive analysis based on market share in volume terms (number of ads published at a time t^{63}) and in value terms.
214. In respect of online car ads⁶⁴, the Minister also took account of the internet site audience, measured in numbers of monthly hits, as the parties had not been able to provide data by value.

⁶² § 185 of the aforementioned guidelines.

⁶³ In this case, this period corresponds to one month: 28 February - 28 March 2017 (this period can be regarded as representative due to the absence of a marked seasonal nature on the market according to the notifying party).

⁶⁴ See the aforementioned letter C2007-19.

215. Although the market test confirmed the relevance of these three criteria (number of ads, turnover, audience) to a competitive analysis, the question of the weighting to be allocated to each criterion is relevant.

a) Examination of the number of ads published criterion

216. According to the notifying party, on the internet user side, the attractiveness of a portal depends mainly on the number of ads published whereas, on the advertiser side, the attractiveness of a portal depends mainly on the audience that it can secure (in quantitative and qualitative terms). Due to this interdependency between internet users and advertisers, a competitive analysis based on the number of ads allows to assess the cross-side network effects, insofar as the utility derived from the use of a platform depends on the number of users of the platform on the other side of the market.

217. However, a competitive analysis that is only based on the number of ads would have certain limits: a website that publishes a significant volume of ads, but attracts few visitors, only exerts limited competitive pressure on the parties. The audience of a site does not depend only on the number of ads, but also on other criteria, such as its reputation, its user-friendliness or the service it offers to internet users.

218. The investigation highlights the importance of the reputation of a website (market test, internal documents of the parties and external studies). Thus, several competitors consider reputation to be one of the main criteria for choosing a property ads portal. A 2017 study confirms this: *“The reputation of the site among the general public is the main criterion when choosing a property ads website”*. Lastly, according to a study by ImmOpinion conducted in 2017 of 400 real estate professionals, 60% of professionals consider that the reputation of the portal constitutes the second criterion when choosing a property ads website after the audience criterion (65%).

219. There is no direct causality between the number of ads published and the audience. For example, Superimmo, a free website for professionals, has around 1 million property ads on its site, but “only” has around 450,000 monthly visitors. Despite a market share in terms of numbers of ads estimated at 15%, Superimmo has a market share of less than 3% in terms of audience. This small market share in terms of audience can be explained particularly by the fact that Superimmo is not well-known, as illustrated by the reputation barometer conducted by Logic-Immo. No respondent spontaneously mentioned Superimmo, whereas only 4% of them recognised the Superimmo logo (compared to 62% for the SeLoger brand).

220. Lastly, the audience of a website depends on its user-friendliness and the services offered to internet users. According to the satisfaction barometer of SeLoger, the user-friendliness of the site is the main quality cited by its users. The notifying party also acknowledges that *“to attract audience, the portals focus on developing innovative services, such as map searches using geo-location data or virtual visits and the development of robots dedicated to property searches”*.

221. Consequently, the number of ads is not a sufficient criterion for assessing the market power of an online property ads portal.

b) Examination of the audience criterion

222. As stated above, audience would constitute a better criterion than the number of ads published to calculate market shares by volume. A competitive analysis of audiences would allow for an assessment of all of the causes of the success of a portal from the point of view of internet users: the number of ads, its reputation, its user friendliness and the services offered.

223. The importance of the audience when estate agencies are selecting a site to publish their ads is reflected in several aspects of the investigation. According to the market test, 16 out of 23 customers consider that the audience is one of the three main criteria for choosing a property ads portal. Further, 65% of the professionals surveyed by ImmOpinion consider that the audience constitutes the main criterion for choosing a property ads portal⁶⁵.
224. Moreover, the French Minister considered, in the decision-making practice, that the audience constitutes an “essential” indicator of the market power of the operators on two-sided markets⁶⁶.
225. The audience criteria should, however, be put into perspective in terms of its use to estimate the market power of the property ads portals market.
226. In addition to the audience, professional advertisers often seek leads, i.e., internet users that leave their contact details on the portal or who contact the real estate advertiser directly. According to the market test, 7 out of 23 spontaneously cited the number of leads as one of the three main criteria for choosing a property ads portal. According to the aforementioned ImmOpinion study, the lack of leads constitutes, in the opinion of 77% of the advertisers surveyed, the main criterion giving rise to the termination of a purchasing agreement for ads advertising space.
227. Moreover, in addition to the quantity of leads generated by a site, their quality is a decisive factor: advertisers are looking for so-called “qualified” leads, i.e., internet users that are genuinely interested in a property. As indicated by the notifying party, *“the property ads portals compete with each other in terms of performance, which corresponds to the number of qualified leads generated by an ad”*. Bernard Gstalder, CEO of SeLoger, declared in August 2015: “[...] what is most important is our ability to transform this traffic into quality leads for our customers, and for the real estate project to be concluded”⁶⁷. He added: *“A site like Le Bon Coin can also provide a large quantity of leads, but what distinguishes us significantly from the others is our ability to secure sellers, generate quality leads and our desire to showcase professionals”*⁶⁸. It is true that internet users can be “passive searchers”, who are not involved in an immediate search for properties. Cyril Janin, CEO of Concept Multimédia, stated in May 2014: *“The general-interest sites, such as Le Bon Coin, allow agencies to reach out to passive searchers, who are a difficult target group, but one that is much sought after by agencies during times of crisis, whereas the sites that specialise in property are looking for active searchers, who are genuinely looking for a property”*⁶⁹.
228. However, a competitive analysis limited to measuring the audience of a site does not allow for either the number of leads generated or the number of qualified leads to be taken into account, with the result that the “performance” of a site, i.e., its attractiveness to advertisers, is not reflected.
229. Although a competitive analysis in terms of audience seems to be more relevant than a competitive analysis in terms of number of ads, it nonetheless does not constitute the best method for assessing the market power of the property ads portals.

⁶⁵ ImmOpinion study conducted in 2017 of 400 real estate professionals.

⁶⁶ See, for example, the aforementioned letter C2007-19.

⁶⁷ <https://www.journaldelagence.com/1118707-seloger-com-est-numero-1-en-audience-globale-3-ecrans-selon-mediаметrie-loin-devant-logic-immo-ou-explorimmo-bertrand-gstalder-directeur-general-de-seloger-com>

⁶⁸ Ibid.

⁶⁹ <http://immomatin.com/articles/sites-pour-les-professionnels/les-rumeurs-selon-lesquelles-puissance-3-n-existera-plus-en-2015-sont-fausse-cyril-janin-logic-immo-com.htm>

c) Examination of the turnover criterion

230. The market share in value terms, calculated on the basis of the turnover generated by the sale of ads advertising space and the related services, seems to be the best indicator of the performance of property ads portals. This approach is in fact in line with the decision-making practice of the *Autorité*, which recalls, in the aforementioned guidelines, that “*as a general rule, the market share of a company is calculated by taking its pre-tax turnover as a ratio of the pre-tax turnover of the market*”⁷⁰.
231. Turnover does in fact serve to draw together all of the criteria set out above since it is the result of the performances of an operator, which charges for its services taking into account an advertiser’s willingness to pay to use a portal, which in turn depends of the size and the quality of the audience. Turnover also depends on the number of ads published on the portal.
232. In this case, the question of the scope of the products and the services to be taken into account in the calculation of the turnover is relevant insofar as the turnover of a property ads portal comprises the revenue from the publication of online property ads, as well as the revenue generated from the online sale of advertising space.
233. The response to this question will determine whether or not one takes account of property ads portals on which advertisers can publish their ads at no cost and which have a financing model that is based exclusively on advertising revenues. In other words, is just the revenue generated by the advertising income, rather than the prices of the spaces and services charged to those placing the ads, a good approximation of the competitive pressure exerted by these so-call “free” property ads portals on the portals that charge for their services? This is the point of view of the notifying party, which explains that high advertising revenues are synonymous with a high audience and, therefore, high competitive pressure on the upstream side of the market.
234. However, during the examination of the acquisition of the property portal Immowelt by Axel Springer in 2015⁷¹, the German competition authority only considered the revenue generated by the sale of the products and services relating to the publication of property ads and excluded the advertising revenue from the calculation of the market shares in value terms.
235. This approach seems to be the most relevant, as the turnover from advertising reflects the level of audience of a portal and its quality for an advertiser. However, it does not reflect the quality of the audience for the estate agencies, which are interested in the overall performance of a portal in terms of property ads (they are looking for “motivated” visitors likely to become buyers or renters of the properties it is offering). In other words, turnover from advertising reflects the quality of the audience for other reasons than that linked to the real estate quality. It therefore does not reflect the pressure exerted by the so-called “free” portals on the portals that charge fees. For the ads portals whose economic model is based on advertising revenue only, it would therefore be necessary to verify to what extent these sites generate leads before taking them into account in the competitive analysis. However, the hearings demonstrated that these sites generate few leads and do not exert any competitive pressure on the portals that charge for their services. Thus, Le Bon Coin considers that “***In theory, they are competitors, but they are not really part of the competition landscape. Their performance is not robust enough***”. This point of view is shared by the networks of estate agencies. Foncia, which has “*included Superimmo in [its] casting in recent months*”, explains: “*we took them on more just to be able to say “we have Superimmo as well” than for its performance. Generally speaking, the free sites cost nothing, but they bring in no returns either*”. Similarly, although L’Adresse

⁷⁰§ 185 of the aforementioned guidelines.

⁷¹ See aforementioned decision of the Bundeskartellamt (“BKA”) of 20 April 2015.

acknowledges that it uses these sites because “*they cost nothing*”, this network does not however include them in its pack comprising the main property portals, which is intended for the agencies in its network⁷².

236. Consequently, the market shares in value terms, calculated on the basis of the revenues generated from the property ads services only, constitute the best criterion for assessing the market power of the property ads portals.
237. To conclude, the competitive analysis will be conducted with a special focus on the turnover criterion, but it will also take account of the number of ads and audience criteria, which are characteristics of two-sided markets.

3. HORIZONTAL EFFECTS ON THE ONLINE PROPERTY ADS MARKET

238. Successive analyses will be made of the risks of price increases to the detriment of the estate agencies at national level (a) and local level (b), then of the impact of the cross-side network effects on these risks (c).

a) The risk of price increases at national level

i. Market shares at national level

239. The market shares presented below correspond to the positions of the parties on a national online property ads market for real estate professionals and include all types of properties.
240. According to the estimations of the notifying party, the new entity would hold the following positions on this market:

Number of ads	[10-20] % - [20-30] % ⁷³
Audience	[30-40] % ⁷⁴
Value	[40-50] %

241. However, the estimation of the market share of the new entity in value terms may well not be reliable. In an email dated 29 August 2017, the legal director of SeLoger acknowledged that, among the data notified to the *Autorité* at the time of the filing of the notification, “*Some figures are reliable, others (considerably) less*”. *The figures in red are only estimations. The highlighted boxes correspond to inconsistent figures (to my mind, in most cases, the highest figure is the figure for the legal entity rather than for the site activity only)*”.
242. The case team has collected the turnovers of the competitors of the parties and has been able to adjust the estimations provided by the notifying party. The size of the online property ads market for real estate professionals in France has thus been estimated at [290-300] million euro in 2016.

⁷² L'Adresse has created a “web pack”, which includes, among others, Le Bon Coin, Logic-Immo, Paru Vendu, AVendreALouer, Explorimmo, Annonces Jaunes, Bien 'ici. However, SeLoger is not included in this pack due to its prices. The free sites are not included either.

⁷³ To calculate the market shares in terms of numbers of ads, the notifying party has suggested two estimation methods: i) the number of ads on each sub-site is added together to obtain the total number of ads published by a group; ii) the ads on the different subs-sites of the same platform have been “un-duplicated” (for example, the ads on Webimm also published on seloger.com have not been counted twice). To calculate these market shares, the inventory was conducted in August and September 2017.

⁷⁴ As the notifying party has not provided an estimation of the market share in terms of audience for the real estate professionals segment, this market share corresponds to the market share in terms of audience on the ads market for professionals and private individuals.

243. The new entity would therefore have a market share in value terms of [50-55] %.
244. The internal documents of the parties also point to a market share in value terms of over 50%. In several documents, SeLogger considers that it has a market share of around [30-40] % to [30-40] % and allocates to Logic-Immo a market share of around [10-20] % to [10-20] %, i.e., a combined market share after the transaction of [50-60] %. In March 2015, Cyril Janin, CEO of Concept Multimédia, identified as one of “*the obstacles to the transaction [...] the Autorité de la concurrence*”, as “*a merger between SL [SeLogger] + LI [Logic-Immo] would give them over 50 % of the online ads market in terms of turnover*”.
245. The estimations of the market shares of the parties and of their main competitors on the national online property ads market are thus as follows:

Ads portals	Market share in value terms (2016)	Market share in terms of number of ads (2016)	Market share in terms of audience (2016)
SeLogger	[35-40] %	[10-20] %	[20-30] %
Logic-Immo	[10-15] %	[5-10] %	[10-20] %
New entity	[50-55] %	[10-20]-[20-30] %	[30-40] %
Le Bon Coin Group ⁷⁵	[20-30] %	[20-30] % ⁷⁶	[30-40] %
Le Bon Coin ⁷⁷	[10-20] %	[10-20] %	[30-40] %
AVendreALouer	[0-10] %	[5-10] %	[5-10] %
Explorimmo	[0-10] %	[5-10] %	[5-10] %
ParuVendu	[0-10] %	[5-10] %	[0-5] %
Bien'ici	[0-10] %	[5-10] %	[0-5] %
Other sites	[10-20] %	[30-40] %	[10-20] %

246. In terms of numbers of ads, the new entity will have a market share of less than [20-30] % (its market share situated between [10-20] % and [20-30] % depending on the estimation methods used).
247. In terms of audience, the new entity, with a market share of [30-40] %, will be subject to competitive pressure from a single credible operator, Le Bon Coin ([30-40] %). The other portals, which each have a far more limited audience of below or equal to [5-10] %, are not individually in a position to exert significant competitive pressure on these two players according to this criterion.

⁷⁵ On 30 November 2017, Le Bon Coin announced its acquisition of the portal AVendreALouer (<https://investir.lesechos.fr/actions/actualites/le-bon-coin-rachete-le-site-immobilier-a-vendre-a-louer-solocal-1716709.php>).

⁷⁶ This estimation of market share was made on the basis of the sum of the number of ads for Le Bon Coin and AVendreALouer. Due to the existence of the same ads on both portals, this estimation overestimates the market share of the Le Bon Coin group.

⁷⁷ The term “Le Bon Coin” will refer to the portal of the same name. The term “Le Bon Coin group” will refer to the new entity, which now comprises the portals leboncoin.fr et avendrealeur.fr.

248. In value terms, the new entity, with a market share of [50-55] %, will be, by far, the leading market player, with a far more prominent position than that of Le Bon Coin group, which enjoys an estimated market share of [20-30] %. The other portals, which each have a market share of below [0-10] %, are not individually in a position to exert significant competitive pressure on the new entity according to this criterion.
249. But SeLoger is already regarded, on its own, as an important player in the online property ads market for real estate professionals. Moreover, according to almost all of the customers and the competitors interviewed for the market test, the transaction would be likely to significantly reduce competition within the online property ads market.
- ii. *The current market power of SeLoger (pre-transaction)*
250. In its communication on abusive exclusionary conduct by dominant undertakings, the Commission considers that “*dominance is not likely if the undertaking's market share is below 40% in the relevant market*”⁷⁸.
251. In the online property ads market for real estate professionals, SeLoger currently enjoys an estimated market share of [30-40] % in value terms, [20-30] % in terms of audience and a market share of between [10-20] % and [10-20] % in terms of numbers of ads. Despite these market shares below the threshold of 40%, SeLoger holds a specific position in the online property ads market for real estate professionals. This assumption stems from the market test, the hearings and the examination of the past business practices of this portal.
252. Firstly, according to almost all the customers interviewed for the market test, SeLoger is currently a “key player”, particularly thanks to its audience, its reputation and its ability to provide quality leads. SeLoger is the second biggest portal and has the biggest audience (in January 2017, it had over 6.1 million hits, over 30% of which were exclusive visitors) and it has a strong spontaneous and assisted reputation with internet users. Its ability to provide quality leads is confirmed by a study dated June 2017, which was submitted by the notifying party, as well as by the online questionnaire conducted by the *Autorité*: in both cases, SeLoger comes first in terms of providing quality leads. According to the ImmOpinion study, SeLoger is the portal that is most recommended by professional advertisers.
253. Secondly, the fact that SeLoger is a key player was also emphasised by the different market players during their hearings. From the point of view of the competitors, Le Bon Coin states that “*there are quite a few areas where you are obliged to subscribe to SeLoger as they are extremely effective. You cannot do without them*”, whereas Bien’ici indicated that “*Currently, SeLoger is a must for many agencies*”. The estate agencies surveyed broadly speaking share this opinion. Orpi considers, for example, that “*it is not possible to do without SeLoger as this portal is in a dominant position due to its audience and, especially, the volume of leads it provides and the quality of these leads*”. Arthurimmo declared: “*It is not possible to replace this portal with a combination of smaller portals*”.
254. Thirdly, several customers confirm the existence of this significant market power, as evidenced by the use of hidden price increases. The notifying party, however, challenges the existence of such price increases. SeLoger stated: “*Firstly, there was no outright increase, the price increases are linked to the Packages, which comprise new services, our product has been transformed in recent years; secondly, the prices of the Packages have not increased for the last three years. SeLoger formally disputes the fact that its prices have increased.*”

⁷⁸ Communication from the European Commission 2009/C45/02, Guidance on the Commission's enforcement priorities in applying Article 82 of the EC Treaty to abusive exclusionary conduct by dominant undertakings.

255. The *Autorité* has noted the broadening of the service offer and that the prices for the general public have not been modified. However, the migration to the new “packages” seems to have been imposed on customers and has been accompanied by price increases, whereas the stability of the prices for the general public in the last three years is temporary.
256. As regards the migration, [confidential]. Customers wishing to amend their contracts were obliged to subscribe to the new offers. In addition, [confidential], for customers wishing to keep their old packages, price increases were made, [confidential].
- [Confidential]
- [Confidential]
257. As regards the fact that the prices for the general public have not changed for three years, the examination of the internal documents of the notifying party reveals that this was not always their wish: a price increase had been considered [confidential]⁷⁹.
258. All of this information confirms that SeLoger holds a specific position on the online property ads market for real estate professionals, which confers it a certain level of market power.

iii. *Elimination of competition among the parties*

◆ The competitive position of Logic-Immo

259. Logic-Immo is the third biggest portal in terms of audience and turnover, and it is also the third ranked in terms of overall satisfaction. This position as the third player in the sector, behind Le Bon Coin and SeLoger, is acknowledged by the parties.
260. Several third parties also confirm this competitive position. According to Foncia, “*there are only three major portals: SeLoger, Le Bon Coin and Logic-Immo*”. Le Bon Coin, for its part, considers that it is competing with SeLoger and Logic-Immo only.
261. According to almost all of the customers surveyed for the market test, Logic-Immo enjoys specific advantages on the market: its audience, its reputation, its ability to generate quality leads and its prices are highlighted.
262. The reputation of Logic-Immo is explained in part by its long-standing presence in the sector. Logic-Immo is regarded as an historic operator in the property ads sector.
263. Moreover, according to Bien’ici, “*Logic-Immo is number 3, and this due to its significant investments in communication, particularly in the television sector*”. The marketing investments made by Logic-Immo in recent years explain, to a large extent, its reputation. During his hearing, Cyril Janin, CEO of Logic-Immo, explained the difficulties that the company has encountered following the termination of Puissance 3 (“P3”)⁸⁰: “*In 2014, after P3, Logic-Immo was in 4th, 5th or 6th position. [...] the decision was made, as of 2014, to invest massively in Logic-Immo. [Confidential]. The company has developed thanks to its global communication and the purchase of key words on Google. The aim of Logic-Immo by the end of 2015 was to win over 8 to 9 million customers who were not managed by Concept-Multimédia. Logic-Immo is now the third biggest portal [...]*”.
264. In addition to reputation and the resulting audience, many estate agencies explain that they use Logic-Immo due to its good value for money (i.e., the cost per lead generated). The study from

⁷⁹ [Confidential].

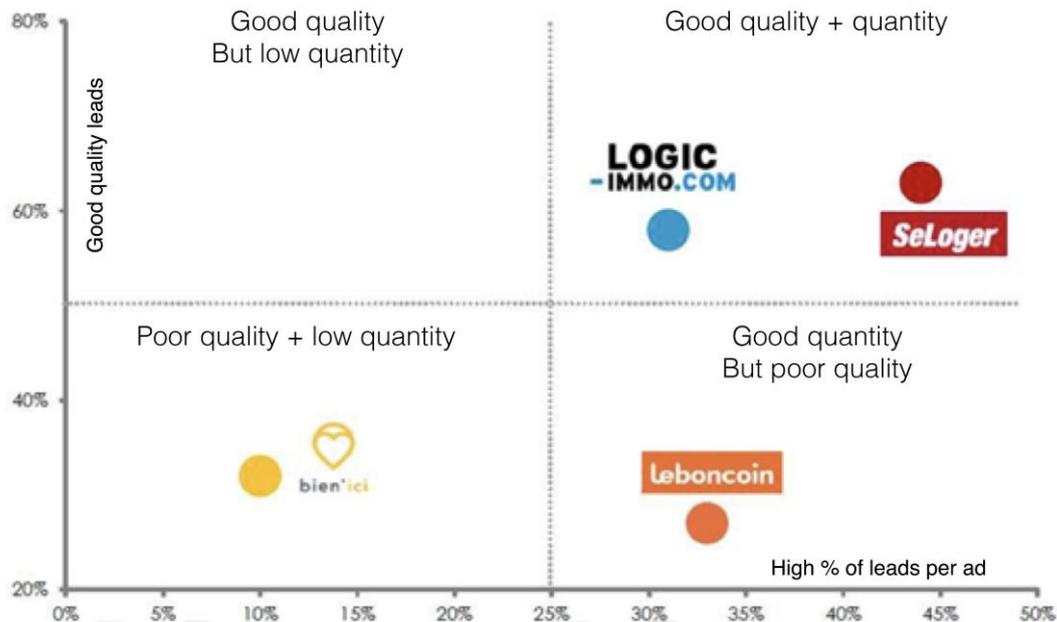
⁸⁰ P3 was a commercial agreement allowing advertisers to publish their ads on the portals of Le Bon Coin, Logic-Immo and TopAnnonces, which ended in 2014/2015.

June 2017, which was submitted by the notifying party, states that Logic-Immo is highly valued for the qualified leads that it brings to customers. Moreover, according to the aforementioned ImmoOpinion study, Logic-Immo is regarded by professional advertisers as the third most effective portal after Le Bon Coin and SeLoger. This positioning is consistent with its market share in value terms, which places Logic-Immo in third place on the market ([10-20] %), well in front of the fourth placed player (Explorimmo, [0-10] %).

265. However, the investigation has demonstrated that these competitive advantages must be put in perspective.
266. The effectiveness of Logic-Immo is called into question by several third parties. Foncia explains, for example, that it terminated its national partnership with this portal in 2017 because *“of the three “big” portals [SeLoger, Le Bon Coin, Logic-Immo], Logic-Immo was the portal that performed worst in terms of the number of leads per advert and cost per lead”*. The fact that Logic-Immo is less effective than SeLoger and Le Bon Coin is reflected in the number of transactions completed via these different portals. According to Le Bon Coin, *“the average number of transactions completed each year in France is estimated to be 700-800,000. Several hundreds [of thousands] were secured thanks to SeLoger, the same for Le Bon Coin. Fewer than 100,000 for Logic-Immo”*.
267. During its hearing, Arthurimmo stated the following: *“80% of our subscribers contract with SeLoger and Le Bon Coin, whereas only 30 to 35% contract with Logic-Immo or Explorimmo”*. Thus, according to this customer of the parties, *“Logic-Immo is replaceable”*. Foncia also considers that it would not be a problem to stop using Logic-Immo: *“[...] it has to be said that, after terminating our contract with Logic-Immo, we didn’t get any negative feedback from the field. Terminating our contract with Logic-Immo “was accepted without any hassle”*. Foncia considers that, since *« early 2017 [this decision to terminate the contract] has not had an impact on our business performance (generation of leads)”*.
268. The foregoing demonstrates that the positioning of Logic-Immo on the online property ads market appears to be more limited than its third-placed ranking in the sector would suggest. Therefore, the question as to its real competitive pressure on SeLoger is relevant.

◆ Analysis of the competitive proximity between the parties

269. SeLoger and Logic-Immo appear to be two close competitors.
270. In the eyes of the market test respondents, Logic-Immo is the second closest competitor to SeLoger (after Le Bon Coin) whereas SeLoger is the closest (or second closest) competitor to Logic-Immo (after Le Bon Coin). Logic-Immo also only regards itself as being in competition with Le Bon Coin and SeLoger: *“In the competition between CONCEPT MULTIMEDIA and Leboncoin and SeLoger, it is vital for CONCEPT MULTIMEDIA to develop its digital turnover and to make the necessary marketing investments “in order to stay in touch” with these two competitors”*.
271. Moreover, SeLoger and Logic-Immo are two portals that specialise in property ads for real estate professionals, unlike Le Bon Coin, which also publishes the ads of private individuals. Only SeLoger and Logic-Immo would be in a position to provide a significant number of quality leads, as indicated in an internal document of Logic-Immo.



272. Logic-Immo is even said to be a “copy paste” of SeLoger, as their service offers are so similar. According to Foncia, “*SeLoger and Logic-Immo are [...] too close, too similar*”. Le Bon Coin stated: “*Logic-Immo is [...] currently a copycat of SeLoger. As soon as SeLoger brings out a new service, two months later Logic-Immo offers the same service. There is almost no difference between SeLoger and Logic-Immo*”.
273. However, although SeLoger and Logic-Immo are two portals that appear similar in the eyes of a number of market players insofar as their model and the services proposed are similar, their competitive proximity is in reality limited insofar as these two portals are barely substitutable. The facts of the case thus demonstrate that Logic-Immo does not exert any significant competitive pressure on SeLoger.
274. It is true that Logic-Immo has generally speaking been presented as a portal that is used “in addition” to the first two, SeLoger and Le Bon Coin. For example, according to Laforêt, “*the distribution across the different portals is usually as follows: a franchisee is traditionally either on Le Bon Coin or SeLoger. It will then supplement its use of sites with Logic-Immo or, possibly, with a challenger*”. One estate agency said: “*Logic-Immo fell off the pace set by the leading duo and it is now competing more with secondary portals (avendrealouer, explorimmo, paruvendu)*”. It summarises the status of Logic-Immo in the online property ads market as follows: “*Logic-Immo [...] is no longer a key player, but does have its place on the market; for example, it was the first portal to propose a dedicated real estate product in partnership with Criteo (ciblimmo retargeting). It is the leading “second fiddle”*”.
275. Le Bon Coin also acknowledges that Logic-Immo is not a close competitor of SeLoger: “*Arbitration between SeLoger and Logic-Immo does not really happen, everyone goes with SeLoger whatever happens*”.
276. Le Bon Coin appears to be the closest competitor to SeLoger even though it is a general-interest and mixed portal unlike SeLoger, which is a portal specialised in real estate and which is almost exclusively reserved for real estate professionals. Le Bon Coin confirmed that competition on the property ads market is between itself and SeLoger: “*We compete head-to-head with SeLoger*”.
277. The competitive pressure exerted by Le Bon Coin on SeLoger is reflected in several internal documents of the notifying party. In a summary of interviews with top management from

SeLoger in 2015, the relationship of SeLoger with Le Bon Coin was regarded as “*peaceful*”: “*Le Bon Coin is seen as an opportunity as it dries up the competitors’ market. No particular concerns as the site has the same pricing policy as SeLoger.com, i.e., does not practice price dumping. Like SeLoger.com, Le Bon Coin positions itself as a premium portal. A duopoly is not problematic per se*”. However, these declarations do not reflect the current relationship between these two competitors, as shown in some more recent internal documents. A document dated June 2016 points to a “*more robust competitive context*”, linked in particular to the fact that “*Le Bon Coin has reached the same level as SeLoger in terms of numbers of ads published by real estate professionals*”. In its strategic plan for 2017, SeLoger emphasises the ability of Le Bon Coin to develop its market share over the next few years in terms of its traffic, the number of ads and the level of its prices. More recently, in a document dated April 2017, SeLoger stated that it “*defended its position against Le Bon Coin*” by limiting the fall in its market share in value terms to one percentage point (between 2012 and 2016, its market share fell from 40 to 39%). Lastly, in the presentation of its new service offer in 2018, SeLoger emphasises the need for a “*moderate price change*” to take account of the less costly service offer of Le Bon Coin. In certain geographical areas ([confidential]), SeLoger does not plan to increase its prices due to its weaker position compared to Le Bon Coin in terms of numbers of ads.

278. This approach is shared by independent analysts. Goldman Sachs indicates that SeLoger has adopted “*a defensive business model by consolidating its position in a highly competitive market*”⁸¹. The investment bank states that “*the real estate market is the biggest growth opportunity for Le Bon Coin given that the company has just started monetising the country’s biggest portal, while it is already the leader in terms of traffic [...], ads [...] and mobile [...]*”.
279. Lastly, the competitive pressure exerted by Le Bon Coin can be verified by estimating the diversion ratio, as presented below.

iv. Analysis of the diversion ratios

280. As highlighted in the guidelines of the *Autorité* (§ 408), the likelihood of a unilateral risk can be determined using the diversion ratios between the parties.
281. By way of a reminder, the diversion ratio of a product A to product B indicates the fraction of sales lost by product A subsequent to an increase in its price to product B in the case of a low, but permanent price increase. In other words, the diversion ratios allow for the quantification of the level of competitive pressure exerted by a product sold by one of the parties to the merger on a product sold by another party. The higher the diversion ratios between the parties, the greater the risk of unilateral effects.
282. The diversion ratios can be calculated in different ways. They can be calculated based on econometric estimations of the price elasticities of demand; they can be obtained from surveys; or they can be estimated based on the monitoring of a panel of consumers over time.
283. In this case, an analysis of the diversion ratios reveals that the incentive for the new entity to increase its prices following the transaction is limited due to the use of multi-publications by estate agencies and the competitive pressure exerted by Le Bon Coin.

⁸¹ Study by Goldman Sachs, March 2017, free translation.

- ◆ The impact of multi-publication by advertisers on the incentive of the parties to increase their prices
284. According to the notifying party, the multi-publication of ads by advertisers causes a significant fall in the diversion ratios between the parties, and therefore the incentive of the new entity to increase its prices as a result of the transaction.
285. As indicated above, multi-publication allows advertisers to publish the same ads on several portals. Consequently, following a price increase by SeLogger, for example, the ads published simultaneously on SeLogger and on Logic-Immo are not likely to be shifted to Logic-Immo since they have already been published on that portal. The multi-publication of ads on both the portals of the new entity therefore has the effect of reducing the profits that the new entity could derive from a price increase compared to those that it could have obtained prior to the transaction.
286. In order to examine the impact of such an effect on the diversion ratios between the parties, the database “[confidential]” was used. For each user of the multi-publication software [confidential], it records the number of ads published by this user on the different portals. On this basis, the case team calculated the diversion ratios based on the assumption that an advertiser that decides to stop using SeLogger (or Logic-Immo) would transfer to the portals that it does not use. The extent of the transfer to another given portal, which is not already used by the advertiser, depends on the market share of this portal compared to the other portals that it does not already use. In accordance with the methodology proposed by the notifying party, the market shares used were calculated based on the number of ads published.
287. These calculations show that the diversion ratio proportionate to the market shares of the different parties is significantly lower when multi-publication is taken into account⁸².
288. Thus, multi-publication on the online property ads market for real estate professionals leads to a fall in the diversion ratios among the parties (compared to a situation with no multi-publication), and thus reduces their incentives to increase prices subsequent to completion of the transaction.
289. An estimation of the diversion ratios based on the transfers observed allows for a more accurate analysis of the risk of price increases following completion of the transaction.
- ◆ Estimation of the diversion ratios based on the transfers observed
290. The notifying party provided databases used by Logic-Immo to identify the portals chosen by the estate agencies. These data show the number of ads published by each agency on the different portals. The case team used, among other things, a database from November 2016, as well as a database from June 2017. These databases serve to identify the agencies that are said to have stopped using SeLogger or Logic-Immo between 2016 and 2017 and to identify the competing portals that they are said to have used instead⁸³.
- Estimation of the diversion ratios from Logic-Immo to competing portals.

⁸² The values of the diversion ratios calculated for the parties must, however, be interpreted with caution. The levels of the diversion ratios are inaccurate insofar as they are based on a diversion assumption proportionate to the market shares, which is a very approximate calculation. In addition, the market shares have been calculated by volume (number of ads) with the effect that they do not reflect the real power of the parties on the market. Lastly, this analysis is based on the assumption that an agency cannot transfer its business to a portal that it already uses. This assumption, however, is wrong if the agency does not publish exactly the same ads on all the portals or if the transfers are not necessarily transfers of ads, but rather budget transfers allowing the agency to buy new visibility services. However, it is not the absolute calculated value that is important in this case, but rather the fall in the diversion ratios in relative value terms as a result of multi-publication.

⁸³ Use of data relating to changes of operators is a customary practice used to estimate diversion ratios and was used, for example, by the European Commission in the mobile telephone sector (see, for example, European Commission decision COMP/M.6497 of 12 December 2012, Hutchison 3G Austria/Orange Austria). The property ads market does, however, have specific features compared to the mobile telephone market that make it more difficult to interpret the transfer data.

291. The table below presents the share of agencies that have added one or more portals present in the database with a distinction drawn between (i) the agencies that stopped using Logic-Immo between 2016 and 2017 and (ii) the agencies that continued to use Logic-Immo between 2016 and 2017.

New portals used	Percentage of agencies starting to use one of the following portals	
	Among the agencies that have stopped using Logic-Immo	Among the agencies that have continued using Logic-Immo
Acheter Louer	0%	0%
Annonces Jaunes	3.5%	7.6%
AVendreALouer	3.5%	7.2%
Bien'ici	4.6%	5.7%
Entre Particuliers	0%	0%
Explorimmo	1.6%	2.6%
Green Acres	0.4%	1.8%
Immostreet	4.6%	4.1%
Le Bon Coin	5%	3.6%
Louer Vite	4%	4.5%
Meilleurs Agents	2.4%	3.1%
Ouest France	0.6%	0.9%
PAP	0%	0%
Paru Vendu	0.8%	1.7%
ProApart	0%	0%
Refleximmo	0%	0%
SeLoger	4.2%	2.3%
Topannonce	1.5%	2.2%
Total	36.6%	47.3%

Interpretation: 3.5% of the agencies that stopped using Logic-Immo between 2016 and 2017 started using Annonces Jaunes in 2017.

292. The sites most often added by the estate agencies that stopped using Logic-Immo are, therefore, in order: Le Bon Coin, Bien'ici, Immo-street (belongs to SeLoger), SeLoger and Louer Vite (belongs to SeLoger). However, the addition of these portals is not necessarily the result of ceasing to use Logic-Immo. Thus, the estate agencies that have continued to use Logic-Immo

also added competing portals between 2016 and 2017 (see right-hand column). In addition, these estate agencies have more often added competing portals (47.3%) than the agencies that stopped using Logic-Immo (36.6%).

- 293. Identifying the diversion ratio from Logic-Immo to the other competitors would entail, in theory, identifying the agencies that stopped using Logic-Immo following a price increase of 5% to 10% and studying their transfers of business. In this case, the agencies that stopped using Logic-Immo between 2016 and 2017 did not necessarily do so following a price increase. It is, for example, possible that some agencies stopped using Logic-Immo due to budgetary difficulties or for an independent strategic reason intended to reduce their use of portals. This would explain why the agencies that stopped using Logic-Immo added competing portals less often than the estate agencies that have continued to use Logic-Immo.
- 294. Nonetheless, the only portals for which the percentage of additions is higher when the agency stopped using Logic-Immo than when it continued using Logic-Immo are Immostreet (belonging to SeLoger), SeLoger and Le Bon Coin. These data may enable us to characterise a substitution effect between Logic-Immo, on the one hand, and SeLoger and Le Bon Coin on the other hand.
- 295. Moreover, these transfers are impacted by multi-publication; as many estate agencies were already publishing their property ads on SeLoger and on Le Bon Coin in 2016, the share of estate agencies that added these two portals in 2017 will obviously be limited. The transfers can thus be studied by offsetting the impact of multi-publication, i.e., by focusing the analysis on the estate agencies that were not using SeLoger or Le Bon Coin prior to ceasing to use Logic-Immo.
- 296. Among the estate agencies that were using Logic-Immo in 2016 and which stopped using Logic-Immo in 2017, and which also were not using SeLoger in 2016, 18% added SeLoger in 2017. Among the estate agencies that were using Logic-Immo in 2016 and which stopped using Logic-Immo in 2017, and which also were not using Le Bon Coin in 2016, 25% added Le Bon Coin. As regards the estate agencies that were using neither SeLoger nor Le Bon Coin in 2016, 26% added Le Bon Coin and 16% added SeLoger.
- 297. Thus, when the estate agency had the option of replacing Logic-Immo with SeLoger or Le Bon Coin, without being constrained by the fact that it was already using these portals, it most often opted for Le Bon Coin.
 - Estimation of the diversion ratios from SeLoger to competing portals.

	Percentage of agencies starting to use one of the following new portals	
New portals used	Among the agencies that have stopped using SeLoger	Among the agencies that have continued using SeLoger
Acheter Louer	0%	0%

Annonces Jaunes	3.3%	7.3%
AVendreALouer	3.4%	7%
Bien'ici	4.8%	6.2%
Entre Particuliers	0%	0%
Explorimmo	2.1%	2.9%
Green Acres	0.4%	1.5%
Immostreet	0.2%	4.2%
Le Bon Coin	6.7%	5%
Louer Vite	0.1%	5.4%
Meilleurs Agents	2.5%	3.3%
Ouest France	0.7%	0.7%
PAP	0%	0%
Paru Vendu	1.3%	1.6%
ProApart	0%	0%
Refleximmo	0%	0%
Logic-Immo	4.8%	3.6%
Topannonce	1.6%	1.9%
Total	31.9%	50.6%

298. The additions of portals are usually higher when the agency continues to use SeLoger than when it stops using this portal, except for the cases of the portals Logic-Immo and Le Bon Coin, which would indicate that there is a transfer towards these portals.
299. If the analysis is restricted to the estate agencies that were not using Logic-Immo in 2016, 12.9% of them transferred to Logic-Immo when they stopped using SeLoger. 31.5% of the estate agencies that were not using Le Bon Coin in 2016 transferred to Le Bon Coin when they stopped using SeLoger. As regards the agencies that were using neither Le Bon Coin nor Logic-Immo, 37% added Le Bon Coin when they stopped using SeLoger (11.5% for Logic-Immo).
300. When the estate agency had the option of replacing SeLoger with Logic-Immo or Le Bon Coin, without being constrained by the fact that it was already using these portals, it most often opted for Le Bon Coin.
- Estimation of the notifying party
301. The notifying party has proposed its own customer transfer estimations using the databases of the parties (“contract databases”) between January 2016 and June 2017. It has thus identified the estate agencies that left altogether or partially one of the portals of the parties. The study excludes from the analysis the customers that left a portal due to the cessation of its activities, since taking into account these customers would artificially reduce the diversion ratios among the parties.
302. This study showed that:

- [0-5] % of the customers that left SeLogger started using Logic-Immo⁸⁴ and [0-5] % of the customers that left SeLogger became customers of Logic-Immo or significantly increased their expenditure on Logic-Immo services;
 - [0-5] % of the customers that left Logic-Immo started using SeLogger⁸⁵ and [0-5] % of the customers that left Logic-Immo became customers of SeLogger or significantly increased their expenditure on SeLogger services⁸⁶.
 - The results obtained are similar when the analysis of the transfers is made in terms of turnover rather than in terms of numbers of customers.
303. The economic study also analyses the case of estate agencies that reduced their expenditure on a portal by over 20%, but did not leave it. Thus, [0-5] % of the estate agencies that left SeLogger or which decreased their expenditure on this portal started using Logic-Immo or increased their expenditure on this portal by over 20%. [5-10] % of the estate agencies that left Logic-Immo or which decreased their expenditure on this portal started using SeLogger or increased their expenditure on this portal. The results of the value-based analyses are similar once again.
304. The analyses of the economic study provided by the notifying party thus confirm the low level of transfers observed between the parties.
- Conclusion on the analysis of the observed transfers
305. Le Bon Coin and SeLogger appear to be the main alternatives to Logic-Immo whereas Logic-Immo and Le Bon Coin appear to be the main alternatives to SeLogger. In any case, Le Bon Coin would appear to be the main alternative to the parties.
306. The analyses presented above also show the low level of the transfer rates between the parties. These analyses do, however, have one significant limitation: the transfers observed are not necessarily the consequence of a price increase by the parties, but could stem from a change to the estate agency's situation (financial situation, strategy, membership, etc.). The relevant diversion ratios for the analysis are those resulting from price increases by the parties or, more generally speaking, from a deterioration in their service offer, which in turn could differ from those observed in the analyses presented above.
307. Such an analysis can be conducted based on the results of the online questionnaire.
- ◆ Estimation of the diversion ratios based on the questionnaire
308. In order to obtain additional information about the levels of the diversion ratios, an online questionnaire was sent by the *Autorité* to all of the customers of the parties⁸⁷, totalling over 30,000 real estate professionals. There were 2,309 responses to the questionnaire, which is a fairly low response rate (7.7%). However, the number of respondents is sufficiently high to be able to analyse the diversion ratios of the customers of each party in favour of their competitors. The 2,309 respondents can be broken down as follows:

Exclusively customers of SeLogger	506
Exclusively customers of Logic-Immo	173

⁸⁴ Compared to [0-5] % according to the estimation of the case team.

⁸⁵ Compared to [0-5] % according to the estimation of the case team.

⁸⁶ The notifying party does not have data relating to transfers to portals competing with SeLogger and Logic-Immo.

⁸⁷ This questionnaire was conducted from 25 September 2017 to 6 October 2017, i.e., prior to the announcement of the acquisition of AVendreALouer by Le Bon Coin.

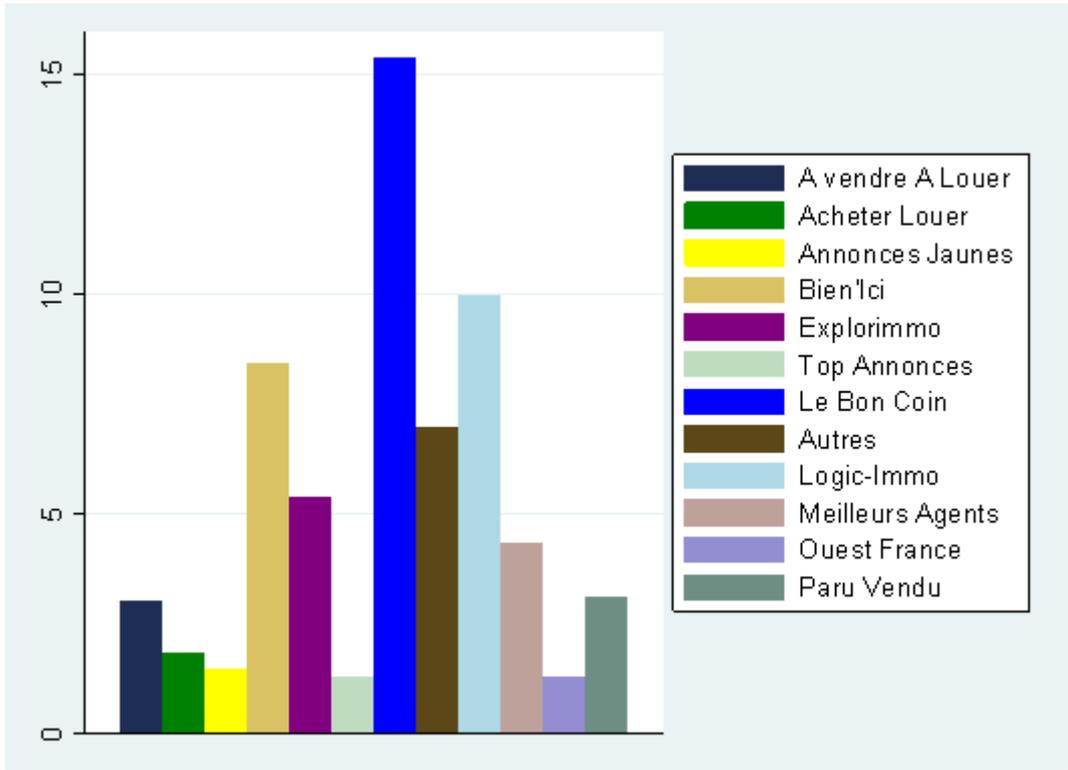
Customers of both SeLoger and Logic-Immo	1,585
Customers that use neither SeLoger nor Logic-Immo ⁸⁸	45

325. The results of this questionnaire must be interpreted with care. As stipulated in the guidelines of the *Autorité*, the results of this type of survey “*can be affected by the wording of the questions asked*”⁸⁹. Similarly, in a recent decision relating to catering platforms⁹⁰, the UK competition authority emphasised the fact that the responses to questions about the hypothetical behaviour of respondents are less reliable than those that would have been obtained if the questions related to current or past behaviour. In any case, these questionnaires “*cannot alone be used by the Autorité to draw conclusions about the effects of the transaction and are not used mechanically to exclude or confirm the existence of competition issues*”⁹¹.

In this case, this questionnaire was used, among other things, to assess the behaviour of estate agencies in the event of an increase in prices by one of the parties.

- Transfers of customers of SeLoger to competing portals

326. In the event of a price increase by SeLoger causing the customers to no longer use this portal, the diversion ratios of the customers of SeLoger to the competing portals would be as follows:



Interpretation: Subsequent to a price increase by SeLoger leading to the customers no longer using SeLoger, 10% of the budget lost by SeLoger would be transferred to Logic-Immo.

⁸⁸ These former customers were not asked about their reaction to a price increase by the parties.

⁸⁹ Merger control guidelines of the *Autorité*, § 417.

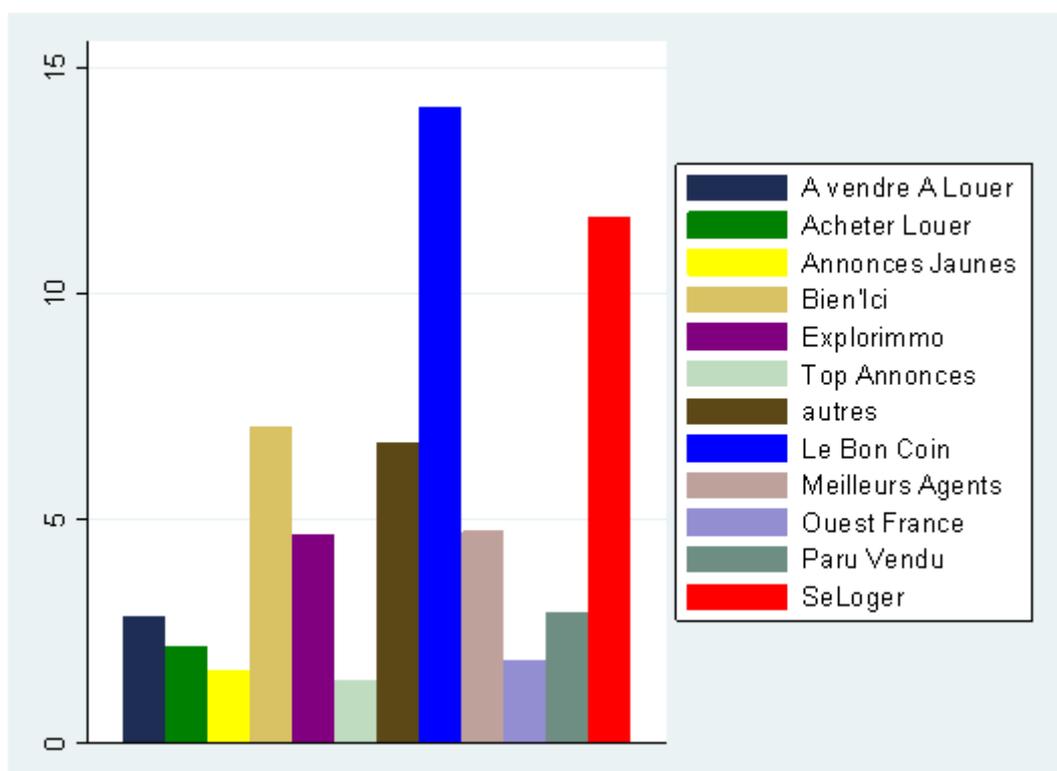
⁹⁰ Aforementioned decision of the Competition & Markets Authority.

⁹¹ Merger control guidelines of the *Autorité*, § 420.

327. The biggest transfers are to Le Bon Coin (15%) followed by Logic-Immo (10%).
328. The sum of transfers to the various different portals is not equal to 1 because the agencies transfer a significant share of their budget outside the framework of the ads portals. Diversion to outside the market (excluding the use of portals) appears to be around four times higher than diversion to Logic-Immo.
329. Thus, over 85% of the budget lost by SeLoger would not be transferred to Logic-Immo. The incentive for the new entity to increase the prices of the services of SeLoger would therefore be limited.

- Transfers of customers of Logic-Immo to competing portals

330. In the event of a price increase by Logic-Immo causing the customers to no longer use this portal, the transfers of the customers of Logic-Immo would be as follows:



331. The transfers of customers of Logic-Immo to SeLoger are greater than the transfers of SeLoger to Logic-Immo, but they are still lower than those benefiting Le Bon Coin. This asymmetry in the transfers between the parties is consistent with the relative power of the two portals insofar as SeLoger exerts a greater constraint on Logic-Immo than that exerted by Logic-Immo on SeLoger. Moreover, the total transfers to portals other than SeLoger and Le Bon Coin are still high. Thus, over 85% of the budget lost by Logic-Immo would not be transferred to SeLoger.
332. The incentive for the new entity to increase the prices of the services of Logic-Immo would therefore be limited.

◆ Conclusion

333. At national level, the diversion ratios between the parties are low and therefore the planned transaction is not likely to lead in the long term to a profitable increase in prices for the new entity.
334. However, the fact that such an increase is not likely to be caused by the transaction does not mean that the new entity will not otherwise implement price increases in the future. SeLoger has in fact already planned to increase its prices in 2018 (following the establishment of new services). This strategy is thus not related to the acquisition of Logic-Immo.
335. In the same way, the fears expressed by the competitors and the advertisers which are customers of the parties do not appear to be specific to the planned merger transaction, but rather reveal the leadership role played by SeLoger.

v. *Le Bon Coin is a credible alternative to the new entity*

336. The portal Le Bon Coin, with an estimated market share in value terms of [10-20] % and an estimated market share in terms of audience of [30-40] %, is, and will continue to be, a close competitor of the new entity.
337. Nonetheless, in terms of audience, it is difficult to compare the position of the new entity with that of Le Bon Coin group due to their intrinsic differences. The position of Le Bon Coin must be put in perspective insofar as this portal attracts an audience of a lower quality than specialist portals. The fact that 66% of the visitors to the property pages of Le Bon Coin are one-off visitors could mean that a large share of its audience comprises passive internet users (users that are not specifically looking for a property).
338. Conversely, its market share in value terms, which appears to be limited in theory, does not reflect the real market power that Le Bon Coin enjoys, as it is based on a specific economic model, which it has recently developed.
339. Firstly, the market share difference between Le Bon Coin and the new entity can be explained by their different economic models. As explained above, Le Bon Coin currently offers very few additional services to the estate agencies - services which are nonetheless likely to generate significant revenue. The turnover of Le Bon Coin comes primarily from the sale of property advertising space. The development of additional services would enable Le Bon Coin to significantly reduce this market share difference given its competitive advantages (very strong reputation and audience, large number of property ads).
340. Secondly, Le Bon Coin started to offer its services to professionals belatedly. As a portal reserved for private individuals up until 2008, it then became a mixed portal, with 80% of the property ads currently published by real estate professionals. Le Bon Coin has also been marketing its offers directly with advertisers for only two years (previously it was included in the “P3” offer). Thus, the current positions of Le Bon Coin only imperfectly characterise its ability in the future to exert competitive constraint on the new entity.
341. Thirdly, the market test and the hearings point to the important status of Le Bon Coin. During the hearings, several customers emphasised the power of this portal. Century 21, which nonetheless defines itself as “*anti-Bon Coin*”, acknowledges that “*Le Bon Coin has become one of the leading property sites*”. Foncia states that Le Bon Coin “*has secured an incredible market share*”. According to Arthurimmo, “*Le Bon Coin has unbelievable power; it is a key player for private individuals and for real estate professionals*”. According to internal estimations made by the notifying party, the market share in value terms of Le Bon Coin increased from 5% in 2012 to 17% in 2016. In its communication to investors on the group’s performance in the fourth quarter of 2016, Schibsted stated that “*Le Bon Coin continues to show improvement in*

the monetization in the real estate segment”. *Real estate revenues grew by 40% during the fourth quarter compared to the same period last year*”⁹².

342. It is true that Le Bon Coin is still behind the parties in terms of quality of leads and services provided. According to the online questionnaire, the mark given to Le Bon Coin by respondents for the quality of the leads that it generates is below that obtained by the parties (5.7 for Le Bon Coin compared to 6.7 for SeLoger and 6.2 for Logic-Immo). This discrepancy in terms of the quality of leads has also be highlighted by several third parties. According to Century 21, Le Bon Coin “*generates a lot of leads, but of a low quality*”. For Foncia, “*with Le Bon Coin, the quality of the leads is very variable*”. Orpi explains that “*The sites reserved for professional advertisers are better than the mixed sites in terms of the quality of the leads.*” Le Bon Coin itself acknowledges that it has “*a population that is a little less “qualified” insofar as, on Le Bon Coin, there is a curiosity factor since we are a general-interest site. There can be some wastage*”. In December 2016, Bertrand Gstalder, CEO of SeLoger, declared: “*Leboncoin has a different positioning with higher audience metrics*”. *But the same cannot be said of the number of qualified leads*”⁹³.
343. However, the facts of the case show that Le Bon Coin should quickly improve the quality of its audience, and therefore the quality of the leads generated. Arthurimmo declared: “*The estate agencies say that the leads generated by SeLoger are excellent, whereas those generated by Le Bon Coin are of a lower quality; nonetheless, this difference is starting to level out*”. Similarly, according to Laforêt, “*Le Bon Coin was a new entrant a few years ago, and a big hitter in terms of overall audience, which was, however, of a low quality initially. This has changed, their audience increased in quality as soon as Le Bon Coin succeeded in penetrating the real estate market in Paris*”. Therefore, even though the quality of the leads differs between Le Bon Coin and SeLoger, this gap is starting to be bridged and is not likely to call into the question the competitive pressure exerted by Le Bon Coin on SeLoger.
344. In terms of services, as indicated above, Le Bon Coin’s offering has so far not been developed substantially, unlike the service offer of the parties, in particular that of SeLoger, with the latter offering the broadest range of services on the market. However, the recent acquisition of AVendreALouer will enable Le Bon Coin to step up its development on the online property ads market for real estate professionals, particularly through new services. Although the strategy of Le Bon Coin group has not been unveiled, a bundled “Le Bon Coin/AVendreALouer” service offer would probably lead to an increase in the market shares of Le Bon Coin group. Such a scenario is especially credible as this acquisition would enable Le Bon Coin to develop a new range of services dedicated to property developers and builders, which constitute an important market for property ads portals.
345. Thus, Le Bon Coin has a significant growth margin within its reach. Schibsted group, which controls Le Bon Coin, indicates in its 2016 annual report: “*Our leading French site Le Bon Coin holds significant long-term potential. Based on the traffic leadership and the strength of the Le Bon Coin brand, there is room for increased market shares in verticals such as real estate, cars and jobs*”⁹⁴. According to the notifying party, recent analyses of Schibsted group published by Barclays⁹⁵ and Goldman Sachs⁹⁶, focusing in particular on the real estate activity of Le Bon Coin, forecast a significant development in its turnover over the next few years.

⁹² <http://hugin.info/131/R/2076662/781093.pdf>. Free translation.

⁹³ https://www.challenges.fr/immobilier/actu-immo/annonces-immobilierees-l-insolente-reussite-de-seloger-bousculee-par-leboncoin_442947.

⁹⁴ Schibsted Annual Report 2016, <http://hugin.info/131/R/2096898/793519.pdf>. Free translation.

⁹⁵ Barclays study, Schibsted ASA, 15 December 2015.

⁹⁶ Goldman Sachs, *Good long-term value, but timing uncertain: off CL, remains Buy*, 6 October 2016.

Barclays and Goldman Sachs respectively forecast an increase of 50% and 101% in the turnover of Le Bon Coin in the property ads sector in France within a market that is indeed growing, but at a measured rate⁹⁷. In its communication to investors in the first quarter of 2017, Schibsted group mentions the “*excellent performance*” of the portal, and states that “*Going forward, the focus is on monetizing the verticals further and introducing new products for professional customers*”⁹⁸. Thus, the reasonably predictable strong growth in the turnover of Le Bon Coin will consolidate its position on the property ads market in France.

346. Le Bon Coin will therefore exert significant competitive pressure on the new entity. As stated above, Le Bon Coin is still the first site the customers of the parties transfer to following a price increase by them.
347. Moreover, even when the agencies already use Le Bon Coin and do not transfer any of their budget to Le Bon Coin when they stop using a portal belonging to the parties, Le Bon Coin is, despite everything, likely to exert competitive pressure on the parties. Following a price increase by the parties, estate agencies could also decide to no longer publish their ads on the portals of the new entity and make do with publishing their ads on Le Bon Coin only and to work in parallel with smaller portals, such as Bien’ici or Explorimmo, for example.
348. In conclusion, even though SeLogger has an important position in the online property ads market at national level and the transaction gives rise to the acquisition of the third operator by the current market leader, the transaction is not likely to harm competition at national level due to the low competitive pressure that currently exists between the parties and the growing competitive pressure that Le Bon Coin will exert on the new entity.

b) The risk of price increases at local level

i. Market share estimations at local level

349. The notifying party has provided estimations of the market shares in volume terms using Batibiz data, which list the ads for old inhabitable properties only that have been published on the main portals of each portal. The following are excluded: (i) ads for other types of properties (business properties, new builds, plots of land, seasonal locations, etc.) and (ii) ads published on sub-sites of the main portals.
350. According to this calculation methodology, the new entity would have a market share of over 40% in two regions: Île-de-France and Provence-Alpes Côte d’Azur (PACA).

Region where the market share of the new entity is above 40%	Market share in volume terms (Number of ads published)		
	SeLogger	Logic-Immo	New entity
Île-de-France	[30-40] %	[10-20] %	[40-50] %
PACA	[20-30] %	[10-20] %	[40-50] %

351. The notifying party also provided estimations of market shares by value at regional level using the database of national turnovers of the portals. The estimated regional turnover was obtained

⁹⁷ According to an internal document of SeLogger, the online property ads market will increase by 23% between 2016 and 2020.

⁹⁸ <http://hugin.info/131/R/2104193/798410.pdf>. Free translation.

by breaking down the estimated national turnover, which was obtained from a survey of professional ads publishers (excluding advertising revenues) proportionate to the number of ads per region on each portal in 2016 (Batibiz data for 2016). Given that this breakdown of the number of ads per region is not known for all competitors, two estimations have been proposed.

- 352. The first includes the players for which the breakdown of the number of ads per region is not known. These players were grouped together in a category “Other” and the average breakdown of the ads per region was used to provide a breakdown of their turnover. The second method entails estimating the market shares by excluding the players for which the breakdown of the number of ads per region is not known.
- 353. The first method is, however, not robust insofar as it is based on an unverified assumption, which has the effect of underestimating the position of the new entity by several percentage points. The results obtained by this method give rise to regional market shares that are systematically lower than the market share of the new entity calculated at national level.
- 354. The second method allows for a more reliable approximation than the first method. Thus, on the basis of this second method, the average of the regional market shares provided by the notifying party is [40-50] %, which is a market share that is very close to the market share (in value terms) estimated by the notifying party at national level ([40-50] %)⁹⁹.
- 355. The second method will therefore be used as a matter of preference to estimate the market shares by value of the online property ads portals at regional level.
- 356. On this basis, the market share of the new entity will be greater than the national market share (which is [50-55] %) in four regions.

Region where the market share by value is greater than the national market share	Market share of the new entity by value (turnover excluding advertising revenues)		
	SeLoger	Logic-Immo	New entity
Corsica	[40-50] %	[5-10] %	[50-60] %
Île-de-France	[40-50] %	[5-10] %	[50-60] %
PACA	[40-50] %	[10-20] %	[50-60] %
Rhône-Alpes	[40-50] %	[10-20] %	[50-60] %

- 357. Despite these relatively high market shares, the new entity will still be faced with significant competitive pressure from Le Bon Coin for the reasons set out above. This competitor is, for example, likely to exert the same pressure at national level as at regional level once, at this level, it has a market share that equivalent to or greater than its national market share ([10-20] %).

⁹⁹ By way of a reminder, the market share estimated by the case team is higher: [50-55] %.

Regions where the market share by value of the new entity is greater than the national market share	Market share by value of the new entity	Market share by value of Le Bon Coin¹⁰⁰
Corsica	[50-60] %	[20-30] %
Île-de-France	[50-60] %	[10-20] %
PACA	[50-60] %	[10-20] %
Rhône-Alpes	[50-60] %	[20-30] %
France (reminder)	[50-60] %	[10-20] %

358. Thus, in the regions of Corsica and Rhône-Alpes, any competition issue can be excluded insofar as Le Bon Coin has higher market shares than at national level.

359. However, in the regions of Île-de-France and PACA, the estimated positions of Le Bon Coin place it well behind the new entity.

360. Several documents confirm the strong position of the new entity in these two regions. According to a study conducted by a consultancy firm in February 2015, “*the combination of turnovers of the 2 groups create an even stronger positioning in the two main regions: Ile-de-France and the PACA region*”. Similarly, as illustrated on the map below, which is taken from a presentation made in September 2007 by SeLoger to the executive committee of Axel Springer, the new entity will have a strong footing in these two regions.

[Confidential]

[Confidential]

361. However, the notifying party sets in perspective the discrepancies in the market shares between the new entity and Le Bon Coin in these two regions.

362. According to it, the respective positions of SeLoger and Le Bon Coin can be explained by the characteristics of the property market in these regions, which is very competitive and which gives an incentive to agencies to avail themselves of quality services. However, insofar as Le Bon Coin does not currently provide such service offers, and the acquisition of AVendreALouer will enable it to quickly develop quality services, the discrepancy in the market shares observed should fall in these regions.

363. Nonetheless, even taking into account the positions of AVendreALouer in these two regions, the discrepancy in the market share between the new entity and Le Bon Coin group is still significant.

Regions where the market share by value is greater than the national market share	Market share by value of the new entity	Market share by value of Le Bon Coin group¹⁰¹
Île-de-France	[50-60] %	[10-20] %

¹⁰⁰ Prior to acquisition of AVendreALouer.

¹⁰¹ The notifying party has only provided the market share by value of AVendreALouer group (which also included the portal Annonces Jaunes). However, Le Bon Coin is only acquiring the portal AVendreALouer.

Regions where the market share by value is greater than the national market share	Market share by value of the new entity	Market share by value of Le Bon Coin group¹⁰¹
PACA	[50-60] %	[10-20] %
France (reminder)	[50-55] %	[20-30] %

364. In the PACA region, the new entity will have a market share by value of [50-60] %, i.e., a position that is some [three to four] times greater than that of Le Bon Coin group ([10-20] %).
365. In the Île-de-France region, the new entity will have a market share by value of [50-60] %, i.e., a position that is some [four to five] times greater than that of Le Bon Coin group ([10-20] %).
366. Moreover, the growth prospects of Le Bon Coin group in these two regions have not been established with certainty.
367. It is thus necessary to analyse in more detail the effects of the transaction in these two regions.

ii. Effects of the transaction in Île-de-France

368. SeLoger currently has an estimated market share by value of [40-50] % in Île-de-France. After the transaction, the new entity will have an estimated market share of [50-60] %.
369. The region of Île-de-France is [confidential] region that belongs to the zone [...] on the price list of SeLoger, i.e., the region with the highest prices.
370. The responses to the online questionnaire conducted by the *Autorité* also highlight the strong position enjoyed by SeLoger in this region. Thus, in the event of a 10% price increase by SeLoger in Île-de-France, 95% of customers would continue to use this portal (compared to 92% at national level), and the number of ads published on SeLoger would fall by 26% (compared to 30% at national level). Moreover, in terms of the quality of the leads, SeLoger has a better mark in Île-de-France than at national level¹⁰².
371. The strong position of SeLoger in Île-de-France has also been emphasised by several third parties. Foncia states that “*Dispensing with the services of SeLoger in this area would be a “grave error” for a real estate professional!*”. This dominance of SeLoger can be explained by the lower level of development currently enjoyed by Le Bon Coin. This portal has acknowledged that it is “*a little off the pace in this area*”, as “*estate agencies in Paris use SeLoger as their portal of first resort*”. *It is a more complex market for us*”. In a document of [confidential], SeLoger had envisaged a unilateral price increase for [...] [confidential].
372. Moreover, the various estimations of the diversion ratios confirm that the transfers from SeLoger to Logic-Immo are not significantly higher in Île-de-France than at national level.
373. Thus, based on all of this information, it appears that Logic-Immo was not in a position to exert significant competitive pressure on SeLoger prior to the transaction, and therefore its acquisition will not be the cause of any potential price increase by SeLoger in this region. Although it is possible that SeLoger will increase its prices in the future, it will not be due to this merger transaction, but due to the position it already enjoys within that geographical area.
374. We should, however, ask ourselves whether, owing to its position as a key player, SeLoger was not exerting significant competitive pressure on Logic-Immo prior to the transaction.

¹⁰² At national level, SeLoger obtains a mark of 6.7; in Île-de-France, SeLoger obtains a mark of 7.1.

375. According to the responses to the online questionnaire, in Île-de-France, SeLoger appears to be the closest competitor to Logic-Immo. There could thus be an incentive for the new entity to increase the prices of the Logic-Immo portal in this region. Nonetheless, this incentive depends on the extent of the transfer of customers between Logic-Immo and SeLoger. However, even in Île-de-France, the transfers of customers of Logic-Immo to SeLoger would be less than 15%, which would limit the incentive of the new entity to increase the prices of the portal Logic-Immo following the transaction. These results are confirmed by the economic study submitted by the notifying party.
376. It is unlikely that, if the prices of Logic-Immo were to increase, a lot of the customers of this portal would move over to SeLoger due to its strong position in this region. The penetration rate of SeLoger is already very high at national level¹⁰³ and, in light of the information collected during the investigation, there is no doubt that this rate is even higher in Île-de-France. According to the online questionnaire, at national level and among the respondents that use Logic-Immo, 10% do not use SeLoger, whereas in Île-de-France only 1.3% of the users of Logic-Immo do not use SeLoger. Similarly, according to the data communicated by the notifying party, the proportion of joint advertisers in the turnover of Logic-Immo is much higher in Île-de-France than nationally (the difference is between 10 and 20 percentage points depending on the estimation methods). Thus, the diversion ratio from Logic-Immo to SeLoger is limited in Île-de-France, which would not act as an incentive to Logic-Immo to increase its prices subsequent to the transaction.
377. Consequently, in the Île-de-France region, the transaction is not likely to provide an incentive to the new entity to increase its prices.

iii. Effects of the transaction in PACA

378. SeLoger currently has an estimated market share by value of [40-50] % in PACA. After the transaction, the new entity will have an estimated market share of [50-60] %.
379. Based on the price list of SeLoger, it appears that the PACA region is not part of the most expensive zone (the zone [...] and that some of its *départements* are even listed in zone [...]). SeLoger is therefore currently subject to quite a lot of competitive pressure. It should be determined whether Logic-Immo, with a market share that is greater in PACA than its national market share, currently exerts such a pressure on SeLoger.
380. In fact, many estate agencies point to the power of Logic-Immo in the South-East. Logic-Immo itself mentions the “*bastions*” in the zones “*where [it] has the most leads*”. *Logic-Immo is fairly strong in the South-East of France for historic reasons, as it was the area in which its print was launched.* ”. The economic study submitted by the notifying party confirms that Logic-Immo exerts stronger competitive pressure in PACA than at national level: the ratio of diversion from SeLoger to Logic-Immo is twice as high in PACA.
381. However, this same study shows that the diversion ratio from SeLoger to Logic-Immo is still limited, as it is below 10%. This weakness of the diversion ratio from SeLoger to Logic-Immo can be explained, for example, by the fact that advertisers multi-publish, with the share of common advertisers in the turnover of SeLoger around 5 percentage points higher in PACA than nationwide. Thus, the incentive of the new entity to increase the prices of the portal of SeLoger in the PACA region following the transaction appears to be limited.

¹⁰³ Explorimmo had a penetration rate of 65.2 % in September 2017 (Batibiz data).

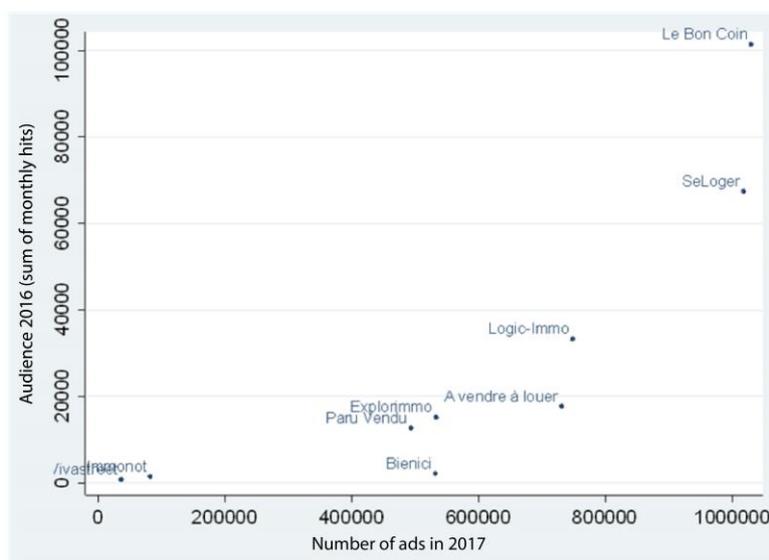
382. As SeLoger has a higher market share in PACA than at national level, the question of the incentive of the new entity to increase the prices of Logic-Immo following the transaction should be examined.
383. The study submitted by the notifying party reveals that SeLoger does not exert greater competitive pressure on Logic-Immo in PACA than at national level, and that the diversion ratio from Logic-Immo to SeLoger is limited as it is below 10%. This weakness of the diversion ratio from Logic-Immo to SeLoger can be explained, for example, by the fact that advertisers multi-publish, with the share of common advertisers in the turnover of Logic-Immo around two percentage points higher in PACA than nationwide. Thus, the incentive of the new entity to increase the prices of the portal of Logic-Immo in the PACA region following the transaction appears to be limited.
384. Consequently, in the PACA region, the transaction is not likely to provide an incentive to the new entity to increase its prices.

c) Taking into account cross-side network effects

385. As explained by the notifying party, the online property ads market is characterised by cross-side network effects insofar as advertisers have a preference for the portals that have a high audience and visitors have a preference for the portals with a large number of ads. These network effects can change the incentives of the parties to increase prices since a price increase on one side of the market can modify the attractiveness of the other side of the market. Before studying precisely this effect, the current extent of the observable network effects must be analysed.

i. Current extent of the cross-side network effects

386. The following graph shows a strong positive correlation between the audience of the portals and the number of ads published on them¹⁰⁴.

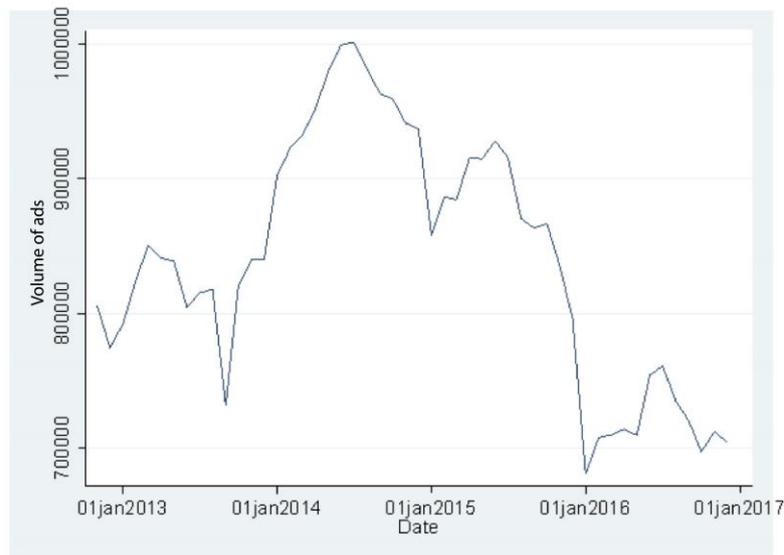


¹⁰⁴ This analysis was conducted on the basis of the number of property ads published by professionals. The data for the number of ads relate to the year 2017, whereas the available audience data relate to the year 2016. This difference does not call into question the existence of a positive correlation between audience and number of ads. Only the portals for which the data relating to the volumes of ads and audience were available are represented on the graph.

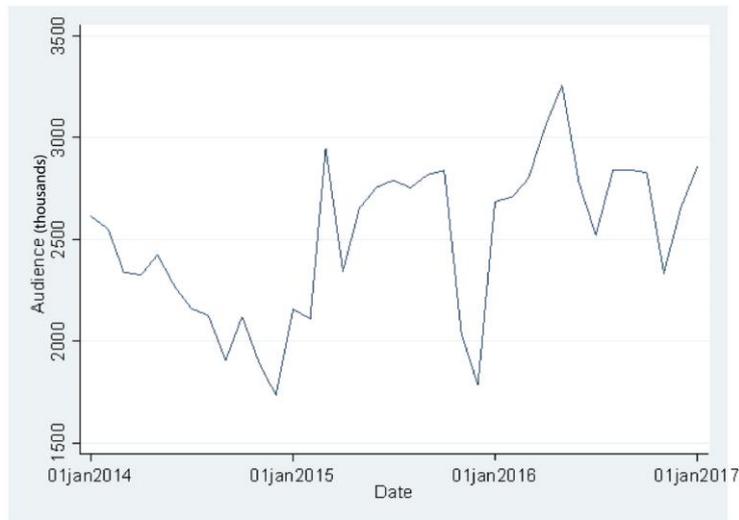
387. This correlation tends to corroborate the existence of cross-side network effects on the market since it shows that the portals that have a large audience usually attract a high number of ads or that the portals that have a high number of ads usually attract a large audience. This analysis does not, however, allow us to assess or differentiate the extent of these cross-side network effects on the two sides of the market. Thus, the correlation observed above could be explained by the fact that the advertisers publish a higher number of ads on the sites that have a large audience, without visitors deciding to consult the sites that list the highest number of ads. However, as explained below, the competitive impact of the transaction will depend on the force of the network effects on the two sides of the market.
388. The extent of the network effects on the upstream side of the market (“on the side of the real estate advertisers”) can be assessed by examining the audience, which is one of the main criteria used to choose a portal. A portal like Le Bon Coin has indeed succeeded in attracting a high number of property ads published by professionals by drawing on its large audience. However, some portals have also succeeded in capturing a significant number of property ads despite having a fairly limited audience by adjusting their prices. This applies to Superimmo, for example, which is free for estate agencies¹⁰⁵, or to Bien’ici, which charges prices that are regarded as more attractive than those of the main portals. This ability of the portals that have a limited audience to capture a high volume of ads is aided by the multi-publication of ads by estate agencies. This multi-publication obviously reduces the network effects by enabling agencies to publish their ads not just on the portal that has the highest audience, but also on other portals.
389. On the side of internet users, although these network effects do indeed appear to exist insofar as the internet users derive greater interest from visiting a portal that has a more exhaustive service offer, the decision to consult a portal will depend in particular on its reputation and, therefore, on the investments made to attract the visitor.
390. For example, it is possible to observe a phenomenon characterised by an increase in the number of ads giving rise to an increase in the audience via the “P3” offer. In 2010, Logic-Immo, Le Bon Coin and Top Annonces decided to combine their property ads offers: these ads were published simultaneously on their respective sites. Via this unique offer, entitled “P3”, Logic-Immo and Le Bon Coin benefited from a significant increase in the number of ads published on their sites. The notifying party acknowledges that *“this product enabled Le Bon Coin to considerably increase the number of ads published on its portal. We can observe a significant growth in the volume of ads published by professionals on Le Bon Coin from 570,000 in October 2010 to over one million in July 2014.”* Moreover, *“as with Le Bon Coin, the number of ads published by Logic-Immo on its portal increased significantly during P3: between early 2011 and mid-2014, the number of ads published on the portal increased from 600,000 to one million”*. However, in parallel to this increase in the number of ads, Le Bon Coin and Logic-Immo also increased their respective audiences. The notifying party thus emphasises the fact that *“the significant increase in the number of ads published on Le Bon Coin during P3 enabled it to increase the audience on its property pages”*, and that *“in parallel to its volume of ads, the online audience of Logic-Immo also increased during P3 from 1.2 million monthly hits in early 2011 to 1.8 million monthly hits in mid-2014”*.
391. However, an examination of other external shocks that led to a fall in the number of property ads shows that the variations in the number of ads are not the main factor explaining why internet users move from one portal to another.

¹⁰⁵ Superimmo is not represented on the graph above, but this portal published over 1.1 million ads in 2017 according to the data submitted by the notifying party.

392. One exploitable external shock is the change in the pricing strategy adopted by certain portals. Thus, a portal that shifts from free services to services that have to be paid for (by advertisers) obviously sees a fall in the number of ads at the time of this transition. Such an effect was, for example, observed in the case of Bien'ici: after starting to charge for its services, the number of ads and the audience of this portal fell. However, the fall in audience was limited compared to the fall in the number of ads: a fall of 32% in the number of property ads between September 2016 and December 2016 led to a 5% fall in audience over the same period.
393. Other types of shocks may also have had an impact on the number of ads published on certain portals. Thus, the number of ads published on Logic-Immo obviously fell after termination of the “P3” offer, which allowed for the simultaneous publication of ads on Le Bon Coin, Logic-Immo and Top Annonces. As the ads published on Logic-Immo no longer benefited from the audience of Le Bon Coin, estate agencies had an incentive to reduce the number of ads they published on Logic-Immo. The graph below shows the significant reduction in the number of ads published on this portal after the end of the “P3” offer (marketing of the “P3” offer ended in December 2014, but the existing contracts only ended in December 2015):



394. However, the changes in the audience of Logic-Immo do not reflect the changes in the number of ads published. In 2016, the audience of Logic-Immo was similar, or even larger, than that observed in 2014, i.e., during a period when the volume of ads was significantly greater thanks to the “P3” offer.



395. It thus appears that an approximate 30% fall in the number of property ads on Logic-Immo did not lead to a fall in the audience on this portal.
396. Consequently, although the existence of cross-side network effects on the downstream side is not called into question insofar as the visitors seem to have a preference for the portals that list a large number of ads, the extent of these network effects appears to be limited: a change - even a significant one - in the number of ads does not appear to lead to a significant change in the audience.
397. The extent of the network effects on the online property ads market is thus limited both on the upstream side (on the side of advertisers) and on the downstream side (on the side of internet users).

ii. Impact of the network effects on the incentive of the new entity to increase its prices

398. Network effects can influence the conclusions of the analysis in terms of the horizontal effects of the transaction. For example, an increase in the price charged by a portal to estate agencies can lead to a fall in the volume of ads published on this portal. If there are cross-side network effects, this fall can thus lead to a fall in the number of visitors to the portal concerned. According to the notifying party, such an effect would reduce the incentive of the parties to increase their prices since the price increase would lead not only to a reduction in the number of ads, but also to a fall in audience. The two-sided nature of the online property ads market would thus decrease the incentive of the new entity to increase its prices.
399. In this case, as explained above, the cross-side network effects on the internet user side are limited. Based on the assumption that a price increase by one of the parties subsequent to the transaction would lead to a reduction in the number of ads on its portal, the audience of the portal would not necessarily be modified substantially.
400. Consequently, the cross-side network effects on the online property ads market do not limit the incentive of the new entity to increase its prices.

4. THE RISK OF COMPETITORS BEING EXCLUDED FROM THE ONLINE PROPERTY ADS MARKET

a) The risk of exclusion linked to bundling

401. The notifying party has indicated that it plans to offer its customers bundled schemes. The risk of a conglomerate-type effect linked to this strategy should thus be studied.
402. The *Autorité* assess the possibility of leverage effects resulting from a transaction that allows the new entity to expand or strengthen its presence on several related markets. As a general rule, such effects are analysed when a merger transaction expands or strengthens the presence of a new entity on several different, but related markets (conglomerate-type transactions)¹⁰⁶.
403. The *Autorité* has, however, already studied this type of effects in a merger bringing together companies that sell products that, without being similar, have a sufficient degree of substitutability to be regarded as belonging to one and the same market²⁰⁰ (horizontal-type transaction).
404. Thus, in its decision n° 10-DCC-11 on the acquisition by TF1 Group of the channels TMC and NT1, the *Autorité* considered that the dominant position of TF1 in the televisual advertising market and, more particularly, in the “powerful screens” segment¹⁰⁷, gave it the possibility of making use of a leverage effect between the sales of powerful advertising screens on TF1 and the sales of non-powerful screens of the channels TMC and NT1 through bundling, or even exclusivity, practices. However, it did not conclude, within the framework of the delineation of the relevant markets, that there were separate markets for “powerful screens” and non-“powerful screens”. It considered that: *“The leverage effects, i.e., the possibility for a company to make use of the strong position that it enjoys in respect of a product to develop the sales of other products, are actually primarily analysed by competition authorities when the case relates to products that belong to different markets and within the framework of conglomerate mergers. Nonetheless, the same type of effect can also be observed within the same market, for example when a company is in a position to draw on its ownership of a key brand to develop the sales of other brands within the same product market”* (underlining added).
405. To demonstrate the existence of leverage effects on a single market selling different products, the *Autorité* chose a standard of proof similar to that applied to the analysis of the conglomerate effects across different, but related markets. According to the aforementioned guidelines of the *Autorité*, three conditions need to be met in order to prove the existence of conglomerate effects: the company must be capable, subsequent to the transaction, of foreclosing the market (i) it must have an incentive to do so (ii) and the foreclosure must have a significant effect on the relevant markets (iii).
- i. Ability of the new entity to establish a bundled scheme*
406. As indicated above, SeLoger is perceived as a go-to portal insofar as no other competitor currently provides as many quality leads. The facts of the case show, for example, that SeLoger is used by a significant proportion of estate agencies in France.
407. According to the data in the multi-publication software, [confidential], out of 2,651 advertisers, 2,046 published ads on SeLoger in July 2017 whereas 605 did not publish ads on SeLoger in the same month (22.8% of advertisers). The data from [confidential], by their very definition, only provide information about the behaviour of the advertisers that use the software [confidential], which are not necessarily representative of all estate agencies. Moreover, the notifying party states that the networks of brokers use their internal software and that 25% of

¹⁰⁶ See, for example, the decision of the *Autorité de la concurrence* n° 14-DCC-76 of 5 June 2014 on the acquisition of sole control of the company *Le Nouvel Observateur du Monde* by the company *Le Monde Libre* as regards the different print media markets (daily national press, daily regional press, magazines, free press and specialised press).

¹⁰⁷ The term “powerful screens” is the name given to the advertising slots that offer better coverage rates and more sustained rates for ratcheting up the advertising campaigns.

advertisers enter their ads manually into SeLoger. These results nonetheless confirm the widespread use of SeLoger. According to a Batibiz study (March 2017), it would appear that only 34% of advertisers do not use SeLoger. This tallies with the penetration rate provided by the notifying party: according to the latter, SeLoger had a penetration rate of 65.2% in September 2017.

408. The very specific position of SeLoger in the property ads market is also revealed by the behaviour of advertisers, who, despite their perception of high price increases, have not left this portal.
409. Moreover, the bundling of offers by SeLoger and Logic-Immo is not the first of its kind on the French market since, between 2009 and 2015, “P3” already enabled advertisers to publish their ads on the portals of Le Bon Coin, Logic-Immo and Top Annonces¹⁰⁸.
410. In light of all of this information, the new entity is capable of establishing a bundled scheme.

ii. Incentive for the new entity to establish a bundled scheme

411. The notifying party will offer estate agencies bundled schemes enabling them to publish their ads simultaneously on the portals SeLoger and Logic-Immo. It in fact announced this commercial bundling strategy in its notification file, which is a strategy that is similar to the one that has already been implemented in Germany following the acquisition of Immowelt.
412. Axel Springer developed a bundled scheme known as “Duo” applicable to the portals Immowelt and Immonet, another subsidiary of Axel Springer, which is active in the online property ads market. This scheme has been a marked success with advertisers: [confidential]. The interest in bundled schemes shown by German advertisers appears to be shared by French advertisers: two thirds of the customers of the parties that responded to the market test indicated that they would be interested in a bundled scheme for the portals SeLoger and Logic-Immo.
413. The incentive to develop this bundling strategy has therefore been established.
414. Bundled schemes for SeLoger and Logic-Immo are, however, only problematic if they have a significant competitive impact on the market.

iii. Competitive impact of bundled schemes

◆ The position of the notifying party

415. The notifying party has proposed an estimation of the effects of foreclosure that could be caused by a bundled scheme introduced by the portals SeLoger and Logic-Immo based on a “*mixed bundling*”-type scheme: the publication of the ads simultaneously on SeLoger and Logic-Immo would be made possible at a lower price than the sum of the prices for publishing on SeLoger and Logic-Immo.
416. This study estimates that several effects are likely to reduce the impact of the foreclosure:
 - As the average price of a classified is significantly higher on SeLoger than on Logic-Immo, the new entity will have to offer a very substantial discount to encourage an estate agency to use SeLoger in addition to Logic-Immo, which would not be profitable. There would therefore be no substantial leverage effect from Logic-Immo to SeLoger.
 - Not all of the ads published on SeLoger that are not already on Logic-Immo are necessarily going to be published on Logic-Immo as a result of the bundled scheme.

¹⁰⁸ These three portals were independent companies, but this strategy reflects the importance of developing as comprehensive a service offer as possible on the downstream side of the market.

- The ads currently published on the two portals would contribute to reducing the potential increase in turnover linked to the bundling. In the event that these ads were to benefit from a discount as part of the bundled scheme, this would even give rise to a fall in the turnover of the parties.
417. The increase in the turnover generated by the bundled scheme would therefore depend on two parameters. The first parameter is the “conversion rate”, i.e., the percentage of ads published currently on SeLoger, and not on Logic-Immo, which will be published on Logic-Immo following the bundling. The second parameter is the level of the price discount granted. All things being equal, the higher the conversion rate, the more the bundling will lead to increased turnover. Similarly, all things being equal, the lower the price discount, the higher the increase in turnover generated by the bundling. The notifying party does not, however, propose a method for estimating these two parameters. The study provided only shows that the turnover created by the bundling for the parties (in millions of euro) is expressed using the following formula: $(1-R) \times A \times 34,1 - R \times 20,3$ ¹⁰⁹.
418. This formula shows that the creation of the maximum theoretical turnover will be achieved for a zero price discount and a conversion rate of 100%. The turnover obtained by the bundling is estimated at [30-40] euro. In practice, this turnover will fall as soon as the price discount becomes positive or the conversion rate falls below 100%.
419. The notifying party states that, for example, a price discount of 30% for bundling and a transformation rate of 67% would give rise to an increase in the turnover for the parties of [10-20] million euro. For other levels of price discounts or conversion rates, the turnover generated by the bundling could, however, be higher. The graph indicates, nonetheless, that the bundling could only generate additional turnover of [30-40] million euro if the conversion rate is higher than 90% and if the rate of the price discount is lower than 10%. However, according to the notifying party, it would be unlikely for there to be a high conversion rate if the rate of the price discount were low. Agencies deciding nowadays not to use Logic-Immo in addition to SeLoger, but instead a competing portal, would be expressing a preference for competing portals (in terms of price and audience), such that, in order to convince these customers to stop publishing on their preferred portals in preference for Logic-Immo, they would have to be offered attractive price discounts.
420. The notifying party states that a foreclosure of the market leading to a gain of [10-20] million euro would be the most credible scenario. According to the notifying party, the foreclosure would thus affect less than 5% of the turnover of the competitors. Even if such a fall were only distributed across the portals of competitors other than Le Bon Coin and AVendreALouer, the foreclosure would affect less than 7% of the turnover of the remaining players.

◆ Assessment in this case

421. The factors highlighted by the economic study submitted by the notifying party, which contribute to limiting the increase in the turnover as a result of the bundling, are effectively likely to exist in practice.
422. In particular, as regards the negative effect of the price discounts on turnover, the guidelines of the *Autorité* note that “*price discounts designed to foster bundled sales*” come at a cost for the company.

¹⁰⁹ R stands for the rate of the price discount and A the share of ads only published on SeLoger by advertisers already using both sites that would, thanks to the price discount, also be published on Logic-Immo.

423. However, the parties could make use of various mechanisms to reduce the cost of the bundled discount.
424. Firstly, the new entity would be in a position to charge different prices by geographical area. It could thus reserve the most attractive bundled schemes, i.e., those benefiting from the highest price discounts, to the areas where the number of ads common to SeLoger and Logic-Immo is the lowest, so as to limit the “cannibalisation” effect of the price discount. [Confidential].
425. Secondly, although it is true that, in order to be an incentive, the bundled scheme proposed by the new entity would have to lead to a price discount on the bundled scheme compared to individual schemes, this reduction would not necessarily imply a price discount compared to the counterfactual situation without a bundled scheme. Thus, if the new entity adopts price discounts for bundled schemes, it could accompany this bundling discount with a standalone price increase on SeLoger’s services. The new entity could thus create a strong incentive for estate agencies to accept the bundled scheme without making any losses. This strategy would consist of “punishing” the estate agencies that do not simultaneously publish their ads on Logic-Immo and SeLoger by imposing a price increase for SeLoger’s services rather than “rewarding” the agencies that make use of the bundled scheme. Such a strategy was identified in a recent OECD study on price discrimination¹¹⁰. In this study, the OECD states that “*bundled discount schemes allow sellers to price discriminate and offers buyers a better price conditional on the buyer also purchasing a different product. As with fidelity discounts this can therefore involve a price discount, or reflect the introduction of a price penalty, depending on the counterfactual price.*”¹¹¹ This effect can also be reconciled against the analysis of the European Commission, which notes in its guidance on the enforcement priorities in respect of abusive exclusionary conduct by dominant undertakings (§37) that “*Conditional rebates can have these [exclusionary] effects without necessarily entailing a sacrifice for the dominant undertaking. [...] To this end, the assessment of conditional rebates is different to predatory pricing, which always presumes a sacrifice has been made*”. Such a price increase for the services of SeLoger for customers that do not use Logic-Immo could, however, be costly for the new entity if some agencies were very reluctant to use Logic-Immo. For example, agencies that do not wish to publish their ads on Logic-Immo may have to leave SeLoger due to the increased price charged to them by SeLoger.
426. To conclude, although the economic study by the notifying party points to credible mechanisms that can reduce the impact of a bundling strategy, it does not, however, allow for the foreclosure to be quantified since it does not propose an estimation of the conversion rate or the discount rate. It is also possible that the study has over-estimated the fall in the turnover of the parties due to the discounts. On the other hand, the analysis of the notifying party may over-estimate the impact of the foreclosure on the competitors, as it does not take account of the fact that SeLoger will not necessarily be a key player for all estate agencies, or that some estate agencies only want to use one portal (SeLoger) to publish their ads.
427. Due to these limitations, another approach has been used by the *Autorité*. In any case, regardless of the methodology used, the conclusions are the same.
- ◆ Estimations of the case team
 - Principles selected to estimate the extent of the foreclosure

¹¹⁰ Background note by the secretariat of the OECD, “Price Discrimination”, 21 November 2016, DAF/COMP(2016)15.

¹¹¹ § 111 of the study.

428. It is difficult to assess precisely the impact of the bundling introduced by the new entity following the transaction insofar as the exact form that this bundling will take is currently unknown. Based on the experiences of the parties in France (“P3” offer, marketed by Concept Multimedia) and abroad (“Duo” offer of Immowelt/Immonet in Germany), the most probable type of bundling would entail a “mixed bundling” scheme, i.e., the type of bundling also envisaged by the study submitted by the notifying party (see above). The publication of ads simultaneously on SeLoger and on Logic-Immo would thus be proposed at a lower price than the sum of the current prices charged individually by SeLoger and Logic-Immo.
429. This bundled scheme should lead to an increase in the volume of ads and turnover for the new entity. Thus, in Germany, through the Duo scheme, the new entity Immowelt/Immonet benefited from a [30-40] % increase in its average transaction value between January 2015 and October 2016.
430. Certain mechanisms behind the increase in the turnover linked to a bundled scheme can foster competition, whilst others can be anticompetitive. The procompetitive effect can stem from the attractiveness of the new scheme in terms of visibility and price, leading the customers to prefer the scheme (the success of the bundled scheme would be a reflection of the greater effectiveness of the new entity compared to its competitors). The anticompetitive effect can stem from the establishment by the new entity of a leverage effect, which entails drawing on the market power of one of the parties to develop the volumes of the other party and thus squeeze out its competitors. The estimation of the impact of the bundling made by the case team focuses on the anticompetitive dimension insofar as the notifying party has not estimated the efficiency gains arising from the transaction¹¹².
431. The case team sought to identify the volumes of property ads that the parties could foreclose based on the market power of one portal to develop the volumes of the other portal.
432. As the guidelines on mergers of the European Commission (§ 99) and the *Autorité* (§ 484) indicate, market power does not necessarily stem from a dominant position; it can also occur when a company owns products or brands regarded as important, or even essential, by the customers, and for which there is no credible or adequate substitute.
433. The investigation revealed that SeLoger is in a position to own a product or brand that it is difficult to do without, unlike Logic-Immo.
434. It is true that, in several areas of the country, Logic-Immo has a stronger position than at national level. However, the market shares by value of Logic-Immo at regional level are still lower at 20% and, in all these regions, there are credible or adequate substitutes for this portal and, therefore, the criteria established to assess the existence of conglomerate effects have not been met. Lastly, if Logic-Immo were to enjoy a key player status in certain smaller local areas, the volumes of ads of Logic-Immo in a few limited areas would obviously be limited, and therefore the foreclosed volumes would only be slightly impacted¹¹³.
435. Consequently, only the SeLoger to Logic-Immo leverage effect has to be analysed (i.e., the new entity would, through its bundling strategy, give an incentive to advertisers that publish their ads on SeLoger to also use Logic-Immo).
436. The European Commission guidelines on the assessment of non-horizontal mergers state that “*it is only when a sufficiently large fraction of market output is affected by foreclosure resulting*

¹¹² Taking account of the procompetitive effects of the bundling would lead to a reduction in the overall anticompetitive impact of this bundling.

¹¹³ The conclusion could be modified if a number of competitors of the parties were specialised in the areas in which Logic-Immo enjoyed this key player status; in practice, no local portal appears to be in this position.

*from the merger that the merger may significantly impede effective competition*¹¹⁴. In order to determine the extent of the foreclosure, the number of ads and the turnover likely to be affected by the foreclosure must be quantified. The impact of the bundling on the competitors will then be analysed using a static, then a dynamic approach.

- Quantification of the number of ads and turnover likely to be affected by foreclosure

437. The estimation of the impact of the bundling first takes account of the fact that SeLoger does not necessarily enjoy key player status with all estate agencies. Thus, SeLoger will not be the key player in the areas of the country in which the power of SeLoger is more limited. To identify these areas, two alternative methods were used. The first entails identifying the areas in which SeLoger charges the lowest prices and the volume of Se Loger ads in these areas. The second method entails estimating SeLoger volumes in the *départements* in which this portal is not in the top two portals in terms of numbers of ads¹¹⁵. The estimation also took account of the fact that SeLoger is not necessarily the key player for the agencies that do not yet use Le Bon Coin. It is possible that an agency that is currently a customer of SeLoger, but not of Le Bon Coin, may replace SeLoger with Le Bon Coin, which also enjoys significant audiences. However, some agencies may currently choose not to use Le Bon Coin, as this portal does not cater for their needs. For these agencies, SeLoger may nevertheless be a key player. The online questionnaire served to identify, among the agencies that use SeLoger and do not use Le Bon Coin, the proportion of agencies that declared that they would shift to Le Bon Coin if SeLoger were to bring in an excessive price increase. For these agencies that do not use Le Bon Coin and which declared that they would shift to this portal, SeLoger was regarded as not being the key player.
438. These analyses served to identify the agencies for which SeLoger is the key player and which can be forced to use Logic-Immo. However, even for these agencies, the bundling will not necessarily have an anticompetitive impact. Firstly, the bundling will not have an anticompetitive impact for the ads that are already published on both SeLoger and Logic-Immo. The bundling will also have no anticompetitive effect for the agencies that do not use portals other than SeLoger since the bundling will, by its very definition, not cause these agencies to cut their expenditure on competing portals¹¹⁶.
439. These analyses serve to identify the number of ads published by agencies for which SeLoger is the key player and for which the bundling will lead to an increase in the turnover of Logic-Immo and a fall in the turnover of its competitors. The turnover generated for Logic-Immo thanks to the bundling can thus be estimated by applying to the number of ads identified the average price per Logic-Immo ad. Based on these calculations, the case team has estimated that the maximum turnover increase generated for Logic-Immo by the bundling following the establishment of a leverage effect would be around [10-20] million euro. This estimation is higher than the one specified in the study submitted by the notifying party ([10-20] million euro) and the one specified in an internal document of the notifying party ([0-10] million euro).

- Impact of the bundling on competitors (static approach)

¹¹⁴ § 113 of the European Commission guidelines on the assessment of non-horizontal mergers.

¹¹⁵ Without other data available at the level of the *départements* (for example, turnover or audience), the position of SeLoger in each *département* must be estimated based on the number of ads. Such an analysis is likely to under-estimate the position of SeLoger since some portals may have a high number of ads, but do not exert significant competitive pressure. To limit this bias, only the main portals were considered in the classification, i.e., SeLoger, Le Bon Coin, Logic-Immo, Explorimmo, Ouestfrance-Immo (which can have significant penetration in some *départements*) and Bien'ici. This estimation produces results that are very close to those obtained using the method based on SeLoger's price list.

¹¹⁶ The latter effect of the bundling impact is, in practice, weak since the vast majority of agencies use several portals.

440. Estate agencies usually allocate themselves a communication budget and then distribute their expenditure across the different portals. Within this framework, an increase in the budget allocated to Logic-Immo could lead to an equivalent reduction in the budget allocated to the other portals.
441. As indicated above, the competitors of the parties account for [45-50] % of the value of the online property ads market for professionals, which was estimated at [290-300] million euro in 2016. The loss of turnover among the competitors would therefore be:
- [0-10] % based on the maximum foreclosure threshold estimated by the case team;
 - [0-10] % based on the economic study submitted by the notifying party;
 - [0-10] % based on an estimation of the transaction synergies by SeLoger.
442. However, this analysis considers that each competitor is impacted in exactly the same way by the bundling. However, the effect of the bundling will probably be greater for some portals.
443. Thus, Le Bon Coin should not incur any loss of turnover due to the bundling planned by the new entity insofar as it is also regarded as a key player by many estate agencies (see above). The notifying party also indicates that 72% of the audience of Le Bon Coin consults neither SeLoger nor Logic-Immo. If an estate agency ceases to publish its ads on Le Bon Coin, it will lose an audience that it will not be able to recover on SeLoger and Logic-Immo. It would therefore be possible for the effects of the foreclosure to affect primarily the competitors of the parties with the exception of Le Bon Coin. In addition, the acquisition of AVendreALouer by Le Bon Coin may also protect this portal from the anticompetitive effects of the planned bundling insofar as it could also introduce such a bundled scheme. The impact on the remaining competitors could thus be greater since the turnover affected by the foreclosure would represent a greater proportion of the turnover of these operators.
444. Based on the assumption that the bundled scheme strategy of the new entity will not have an impact on Le Bon Coin group, the loss of turnover for competing portals would be:
- [10-20] % based on the maximum foreclosure threshold estimated by the case team;
 - [10-20] % based on the economic study submitted by the notifying party;
 - [0-10] % based on an estimation of the transaction synergies by SeLoger.
445. According to the guidelines of the European Commission, “*bundling or tying may result in a significant reduction of sales prospects faced by single-component rivals in the market. The reduction in sales by competitors is not in and of itself a problem. Yet, in particular industries, if this reduction is significant enough, it may lead to a reduction in rivals' ability or incentive to compete*”¹¹⁷ (underlining added).
446. To assess in greater depth the effect of this bundling on competition, it is possible to identify the competitors of the new entity that will be most affected by the bundled schemes of the parties. In particular, the portals that publish a large number of ads in common with SeLoger are likely to be more affected by the bundling. If the bundled scheme leads to an advertiser publishing the ad that he published with SeLoger prior to the transaction with Logic-Immo as well, this could lead to the advertiser removing this same ad from a competing portal on which it was already published. The percentages of ads in common for each portal competing with SeLoger are as follows:

¹¹⁷ § 111 of the guidelines of the European Commission.

	Proportion of ads in common with SeLoger
Annonces Jaunes	[40-50] %
Bien'ici	[30-40] %
Explorimmo	[30-40] %
Green-Acres	[20-30] %
Paru Vendu	[40-50] %
Topannonces	[30-40] %

447. It transpires that portals such as Paru Vendu and Annonces Jaunes are the most exposed to a bundling strategy. However, these two portals have a broader scope of activity than merely online property ads for professionals, which is likely to limit the risk of their exclusion from the market.
448. Clearly, in order to assess whether the fall in the competitors' turnover is likely to lead to their exclusion from the market, the loss of turnover as a result of the foreclosure must be assessed in respect of their overall activity.
449. In fact, many competitors do not have an activity that is restricted to the online property ads market for professionals. Several portals also cater for property ads for private individuals, or even for other types of ads.
450. Within this framework, a significant proportion of the costs of the portals could be spread across the different activities (for example, as regards part of IT development costs). These portals will thus probably have no interest in leaving the property ads market for professionals in the event of a fall in the volume of ads. If these portals remain active on their other markets, it will only be profitable to leave the online property ads market for professionals if the revenue obtained by these ads, due to the bundling, falls below the incremental cost of the activity. This incremental cost can be low given the extent of the costs in common with the other activities of these portals.
451. For example, Figaro Classified¹¹⁸, which controls the portal Explorimmo, derives a large proportion of its turnover from markets other than the property ads market, such as job offers (Cadremploi, Keljob), professional networks (Viadeo) and the print media (LeFigaro). AnnoncesJaunes belongs to Solocal group, whose activity is mainly focused on markets other than the property ads market (Solocal, for example, owns the sites PagesJaunes and Mappy). Paru Vendu is owned by Digital Virgo Media group and is the second biggest ads site in France with a presence in the categories "Cars, jobs, animals, bargains".
452. Lastly, the new entity will still be faced with competition from Le Bon Coin group. As stated in the European Commission guidelines, "*If there remain effective single-product players in either market, competition is unlikely to deteriorate following a conglomerate merger. The same holds when few single-product rivals remain, but these have the ability and incentive to expand output*". In this case, even though Le Bon Coin is not a single-product rival, insofar as it is active on markets other than the property ads market, its presence on this market is likely to offset the anticompetitive impact of a bundled scheme established by the new entity.

¹¹⁸ *Itself controlled by Dassault group.*

453. Thus, taking into account the specific features of the operators on the market being studied, the bundling is not likely to lead to the exclusion of many competitors on the online property ads market for professionals based on a static approach.

- Impact of the bundling on competitors (dynamic approach)

454. The “static” approach to the bundling effects does not take account of the impact of the network effects. However, it is necessary to study the extent to which a fall in the volume of ads of the competitors caused by the planned bundling would be likely to cause a fall in their audience, which in turn exacerbates their fall in volume. This spiralling negative effect has also not been excluded by the notifying party, according to whom the massive fall in the audience would cause a fall in the number of ads published, which would lead to a further fall in audience and so on and so forth.

455. To determine whether such a negative spiralling effect can really take root, the characteristics and recent developments on the online property ads market for professionals should be studied.

Characteristics of the online property ads market for professionals

456. The negative spiralling effect is firstly limited by the weakness of the cross-side network effects on the side of the audience and by the differences between the operators.

457. For example, as indicated above, a fall in the number of ads does not generally speaking lead to a fall in the audience, primarily due to the fact that internet users consult multiple sites. This weakness of the cross-side network effects on the downstream side would thus prevent the negative spiralling effect.

458. Moreover, although the portals are significantly different, internet users could continue to consult a portal that better corresponds to their preference even if it has fewer ads than that of its competitors.

459. Nevertheless, there are potential differences in the online property ads market.

460. Portals differ according to the characteristics of the properties that they advertise. For example, portals specialise in the publication of advertising spaces for a certain type of property only (new property, prestigious property, business property).

461. Other portals differ in terms of the services they offer: for example, Meilleurs Agents targets the owners of properties for sale or to rent rather than potential buyers or renters by offering them access to information relating to the real estate market.

Developments on the online property ads market for professionals

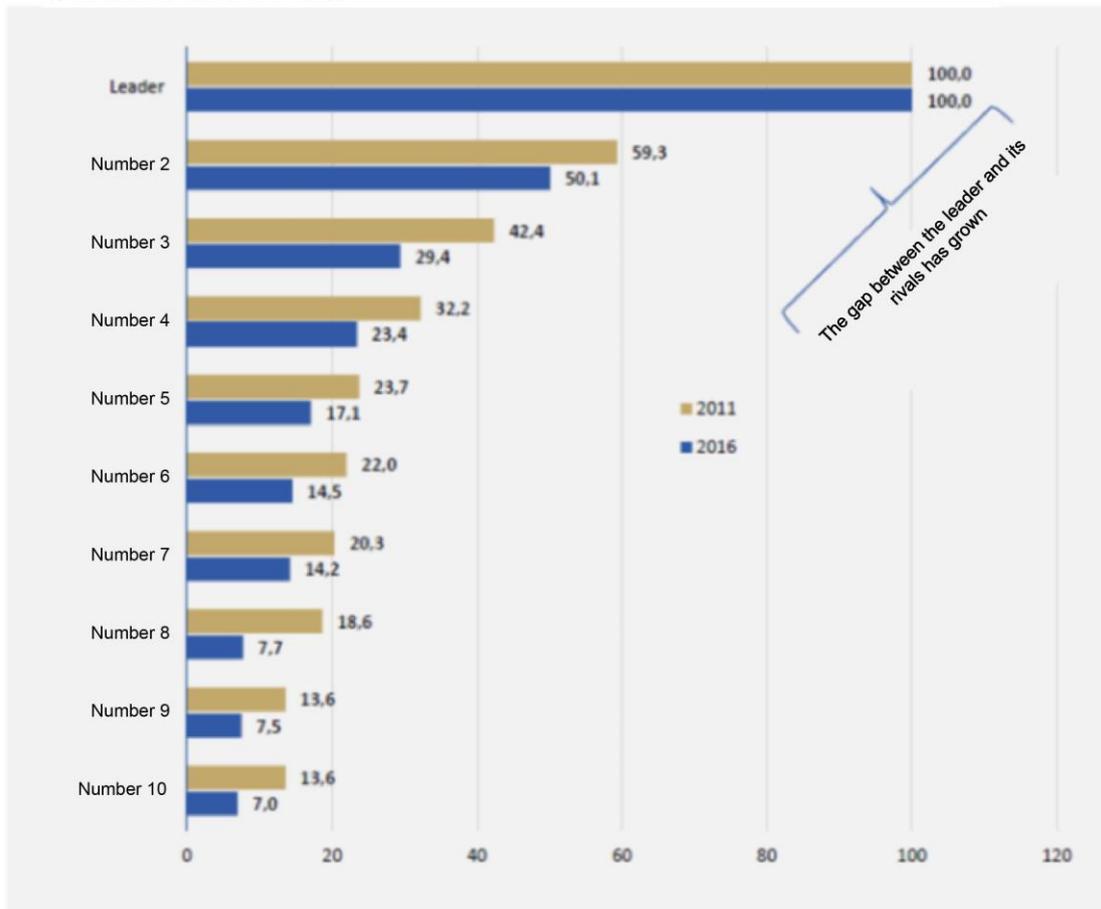
462. It is also possible to examine the existence of a spiralling effect based on a study of the developments in the positions of the market players. Spiralling effects should lead to an improvement in the position of the main portals and, at the same time, to a deterioration in the position of the smallest players.

463. According to the Xerfi study of new digital challenges in the real estate sector; “*the network effects in the property ads website sector have meant that the audience has become concentrated in the hands of 2 to 3 sites. [...] The developments in the positions of the property ads websites in relation to the leader in terms of audience point to a strengthening of the influence of the leader over its rivals. The second-placed site only had half the online audience of the leader in 2016 compared to 59% in 2011*”.¹¹⁹ The table below illustrates this polarization.

¹¹⁹ Xerfi study, “The new digital challenges in the real estate sector”, July 2016.

■ Audience trends for the Top 10 property websites

Unit: index of 100 for the leader



Interpretation: in 2011, the audience of the number 2 classified ads site was 59% of that of the leader. In 2016, this share was 50%.

Author Xerfi/ Source: Médiamétrie/Netratings

464. However, the fall in the audience of the competing portals compared to the leading portal in terms of this criterion stems primarily from the increase in the audience of the leading portal, Le Bon Coin, without the competing portals having necessarily incurred a fall in their audience in absolute value terms. For example, the audience of Explorimmo has remained relatively constant, and even increased between 1 January 2014 and 1 January 2017. This is also the case with the audiences of AVendreALouer and Paru Vendu. A new portal such as Bien'ici has also succeeded in securing a significant audience over this period with some 900,000 hits in January 2017.
465. Moreover, the trends in the volumes of ads published do not point to a widespread erosion of the activity of the smallest portals: Acheter Louer, AVendreALouer, Explorimmo or Paru Vendu did not see a fall in the number of their ads between 2013 and 2016.
466. It is true that an internal document of SeLoger indicates that, between 2012 and 2016, the market players, excluding Le Bon Coin, SeLoger and Logic-Immo, saw their market share fall from 41% to 31%. However, this fall in market share has been accompanied by an increase in the size of the market. The turnover of competitors has remained fairly constant over this period (with a fall of less than 2%).
467. The past market trends therefore do not point to the existence of a spiralling phenomenon.

468. An examination of the characteristics and trends observed within the property ads market does therefore not demonstrate that a bundled scheme established by the new entity would be in a position to cause, in the short and medium term, a negative spiralling effect likely to exclude its competitors.

◆ Conclusion on the competitive impact of the bundled schemes offered by the parties

469. The bundled scheme likely to be established by the new entity will not be sufficient to exclude its main competitors. In the event that the foreclosure effects were focused on the small competitors of the parties, the impact on these competitors would still be of limited scope, including taking into account the cross-side network effects. The anticompetitive impact of the foreclosure would also be limited by the maintenance of the competitive pressure exerted in particular by Le Bon Coin, which would be sufficient to offset the market power of the new entity.

b) The risk of exclusion linked to data acquisition

470. The investigation, including the contributions of several third parties, has led to a more in-depth examination of the issue of the acquisition of data owned by Logic-Immo, which appears to be particularly important. Bien'ici indicates, for example, that *“the transaction allows for [...] the acquisition of an extremely large volume of data, which are of great value. This is perhaps the biggest threat and the biggest value of the acquisition of Logic-Immo”*. The FNAIM considers that *“the contractual policy of SeLoger is already geared towards the retrieval of property-related data. The issue of the data retrieval in respect of this transaction is therefore relevant”*.

471. The retrieval and the exploitation of the data of both internet users and property advertisers indeed appear to be essential to the development of new services. SeLoger even acknowledges the strategic role of these data: *“The new services need to use the data to enhance their performance”*. For example, by retrieving data from users (internet users) SeLoger offers advertisers services such as *Contacts enrichis* and *Veille marché*. By way of a reminder, the *“Contacts enrichis”* service enables an advertiser to receive the contact details of internet users looking for a property and who wish to get in contact with an estate agency; the *“Veille marché”* service gives an advertiser access to statistics relating to the publication and consultation of ads for one or more geographical areas. By retrieving data from real estate professionals, SeLoger offers them other services: the *“Avis de valeur”* service thus enables the advertiser to access a set of data needed to provide a seller client with an estimation of the value of his property. Lastly, offering internet users innovative services such as mapping and geo-location services, which appear to be strategic tools enabling sites to stand out from the competition, requires the collection of precise data supplied by estate agencies. According to SeLoger and Logic-Immo, it is thanks to this detailed information that Bien'ici was able to rapidly develop these two services. Thus, the portals, particularly SeLoger, are asking estate agencies to communicate to them an increasing volume of data and are developing in great depth the services based on the use of these data.

472. For SeLoger, the data are thus a *“strategic priority”* and constitute *“a factor enabling it to stand out from the competition in the future”*.

473. Two thirds highlighted the advantage that SeLoger currently enjoys in terms of data, particularly due to its market share and the deliberate policy it adopts in respect of advertisers in order to obtain more data from them. Some advertisers also consider that they are forced to transmit their information to SeLoger. For example, Laforêt mentioned *“new obligations, particularly in terms of data.”* Other customers terminated their partnership in order not to have to communicate these data to SeLoger. Such is the case with Century 21, which stated that:

“This contractual provision was deemed unacceptable by Century 21 France, as SeLoger was demanding official partner status and forcing Century 21 to be a sort of internal “spokesperson” of SeLoger, to open the doors of the agencies and head office to SeLoger, as well as to transmit information relating to the properties sold and their address without any guarantee of their use. Century 21 France refused to sign this contract, particularly due to the imbalance it created”. The FNAIM adopted the same approach: *“In light of the changing governance of SeLoger, the price increases and the demand to own ever increasing amounts of data, we have terminated this partnership”.*

474. SeLoger thus already has the capacity to obtain large volumes of data from both estate agencies and internet users. This advantage could be further strengthened with the acquisition of Logic-Immo, especially as this company owns the company Rodacom, which provides services to real estate professionals, such as multi-publication services¹²⁰. Indeed, retrieval of data from advertisers appears all the more easy if a portal has multi-publication software at its disposal. Laforêt is also of the opinion that the transaction will give rise to *“a great deal of pressure on data, with a lot of information to be provided in order to be able to publish”*. Lastly, according to a third party, *“thanks to a combined audience, the new entity will consolidate data that no other operator will have. It will probably be able to offer new products, but at what price?”*.
475. Thus, there would be a risk of the new entity owning more data about internet users and from real estate advertisers, which would enable it to develop new services that could not be copied by competing portals.
476. However, the *Autorité* notes that the competing portals will still have the possibility of accessing the same data as the new entity, as there are no exclusivity practices on these markets. For example, in light of the composition of its shareholders, Bien’ici could benefit extensively from data from real estate advertisers. Le Bon Coin, which is the leading portal in terms of audience, has easy access to data regarding internet users. The fears expressed above thus appear to be insufficiently substantiated.
477. Consequently, the risk of the anticompetitive capture of the data of estate agencies and internet users, to the benefit of the new entity, cannot be established with sufficient certainty.

5. COORDINATED EFFECTS ON THE ONLINE PROPERTY ADS MARKET

478. In accordance with European and national case law¹²¹ and the past decisions of the national competition agencies¹²², a transaction can modify the nature of the competition on the market in such a way that the companies which, up until then, were not coordinating their competitive behaviour, have an incentive to do so or, if they were already coordinating their behaviour, can do so more easily. Such effects are made possible when, on a highly concentrated market, as a result of a merger, in full knowledge of the common interests, each member of the oligopoly

¹²⁰ A gateway is created by the advertisers to allow for the automatic publication of their ads on a given portal via a multi-publication software. SeLoger also has a non-controlling 40% stake in a company, one of whose activities is to provide multi-publication services via the software [confidential].

¹²¹ See, for example, the ruling of the Court of First Instance of the European Communities (now the General Court) T-342/99 of 6 June 2002, *Airtours plc. vs Commission* and the ruling of the CJEC (now CJEU) of 10 July 2008 C-430-06, *IMPALA*. See the decisions of the French Administrative Supreme Court (*Conseil d’Etat*) of 31 July 2009, *Fiducial Audit and Fiducial Expert Assessment*, n° 305903, published in the court reports, and of 5 November 2014, *Société Wienerberger*, n° 373065, published in the court report.

¹²² See the decisions of the *Conseil de la Concurrence* 07-D-13 of 6 April 2007 relating to new applications for interim measures in the maritime transport sector between Corsica and the continent, 07-D-13 of 6 April 2007 relating to new applications for interim measures in the maritime sector between Corsica and the continent and 10-DCC-11 of 26 January 2010 relating to the acquisition of sole control by TF1 group of the company NT1 and Monte-Carlo Participations (AB group).

regards it as possible and economically rational to adopt on a sustainable basis the same line of action in order to sell its services or its products at prices that are above competitive prices, without having to conclude an agreement or engage in a concerted practice and without the current or potential competitors, or even the customers, being able to react effectively.

479. Coordination is more probable on markets where it is fairly easy to achieve a mutual understanding of the arrangements for the exercise of the coordination.
480. Apart from the mutual understanding of the model of coordination, three cumulative conditions must be met to be able to characterise the existence of a collective dominant market position: (i) a sufficient level of market transparency enabling each oligopolist to know the behaviour of each of the other members in order to ensure that none deviates from that behaviour (detection condition); (ii) the perpetuation of the coordination due to a threat of reprisals that dissuades each oligopolist from deviating from the common line of conduct (dissuasive condition); and (iii) a lack of effective questioning of the coordination by current and potential competitors and by consumers (no contest condition).
481. During the investigation, several market players expressed fears about the formation or strengthening of a SeLoger / Le Bon Coin duopoly in the online property ads market for professionals. For Foncia, *“we are stuck between these two main players [SeLoger and Le Bon Coin], who are key players”*. According to Laforêt, *“these two portals have become dominant brands”*. Even Le Bon Coin states: *“Internet users have reflexes. SeLoger and LeBonCoin are those reflexes”*.
482. In this case, it should be verified whether the transaction is likely to create, or foster, coordinated behaviour between the new entity and Le Bon Coin group.
483. As the conditions presented above are cumulative, if one of them is not met, any risk of coordinated effects can be excluded.
484. In this case, the detection condition has not been met. The analytical information set out below are valid at both national and local level.
485. As indicated above, the market share of the new entity is estimated at [50-60] % in value terms compared to [20-30] % for Le Bon Coin group. But this market share discrepancy becomes minor when the analysis is made in audience terms. According to this criterion, the new entity will have a market share of [30-40] % compared to [30-40] % for Le Bon Coin group.
486. After the transaction, there could therefore be a certain symmetry in terms of the audience market shares of the two main market players. It is true that there are many other competitors, but their market shares would be marginal (below [0-10] %). This symmetry of audience market shares could reflect a certain similarity between Le Bon Coin group and the new entity, which would facilitate the coordination of their behaviour.
487. However, there are significant differences in the positionings of these two portals, which will not be in a position to develop a common understanding of the functioning of anticompetitive coordination.
488. The new entity will almost exclusively cater for professional advertisers, whereas Le Bon Coin group will also cater for private individuals placing adverts. Indeed, Logic-Immo is exclusively reserved for professional real estate advertisers, which was the case with SeLoger until recently. Since 2016, this portal allows the publication of property ads by private individuals on the sub-portal “Louervite”, but these are rental ads. The number of ads by private individuals is thus marginal on SeLoger’s portals. For its part, Le Bon Coin is a mixed portal, which publishes property ads by private individuals and professionals.

489. From the point of view of the sales offer, the new entity and Le Bon Coin differ, particularly in terms of their products and services.
490. SeLoger markets three types of “packs”, which comprise ad spaces and additional visibility products. Logic-Immo also markets “packs” with the possibility of subscribing additional options. Conversely, Le Bon Coin and AVendreALouer market ad spaces and additional visibility services separately. None of the facts of the case enable us to assert that the new acquisition by Le Bon Coin will have an influence on the form of its commercial offer.
491. Moreover, the nature of the additional visibility services proposed by the parties and by Le Bon Coin is different. The main services marketed by Le Bon Coin are “basic” (i.e., moving the ad up to the top of the list and the insertion of the “urgent” logo) if we compare them to the services marketed by SeLoger and Logic-Immo, which are more sophisticated (“Contacts enrichis” and “Boost Alerte” for SeLoger and several audience-related products for Logic-Immo). It is true that the acquisition of AVendreALouer could lead to the development of new services, but, at this stage, it is not possible to anticipate what these services will look like.
492. The difference between the portals is also visible in terms of the profiles and the motives of the visitors. The notification mentions, in this respect, a lower audience for Le Bon Coin in Île-de-France compared to the audience of SeLoger and Logic-Immo and, more generally speaking, an over-representation of the less privileged socio-professional categories and an under-representation of the 50-64-year-olds.
493. Lastly, the audience of Le Bon Coin is of lower quality than those of SeLoger and Logic-Immo. Due to its general-interest focus, the Le Bon Coin portal attracts a massive audience, a part of which comprises internet users that are said not to be really looking for a property. To illustrate this phenomenon, Logic-Immo makes a distinction between active and passive property seekers: *“When a buyer logs in to Logic-Immo, he does so voluntarily as part of an active search. He will create email alerts. On Le Bon Coin, he logs in by typing in his town/city. There are a lot of ads listed in order of publication. The content of the site changes a lot: it can vary from a buggy, to a car, to a property. Due to the audience of the site, this generates leads, but for people who are not necessarily actively looking for a property. The approach is different to that of internet users that consult specialised sites, as they are engaged in an active search”*.
494. The question of price transparency is relevant insofar as certain prices for publishing online property ads are public.
495. The notifying party has provided a table of prices including taxes for the visibility products offered by Le Bon Coin to professional advertisers and private individuals.
496. The existence of public price lists, as well as the changes to the prices of Le Bon Coin, whose prices are lower than those of SeLoger, could foster market transparency.
497. However, the public price lists for the portals are only applied to a certain category of customers, the custom in the sector being to apply different prices based on OTC negotiations, which are likely to lead to significant discounted rates. Moreover, according to Le Bon Coin, the increase in its prices, which was mentioned by several third parties, reflects its increased efficiency, and is therefore not, according to it, in response to “the price increases” of SeLoger. This point of view is also shared by Arthurimmo, which stated that the price increases of Le Bon Coin were justified by its increased audience.
498. However, according to Le Bon Coin, the feedback from estate agencies allows for the prices charged by the main portals to be estimated: *“We are able quite easily to monitor the price trends of our competitors. We ask the customer directly on what media it publishes its ads, and then, on the basis of their response, we calculate the rest”*. The notifying party also

acknowledges that the feedback from customers provides information about the commercial conditions of the competing portals, but this information is only available on an ad hoc and disparate basis.

499. The notifying party indicates that SeLogger has granted significant discounts to its customers, which reach on average [confidential]. Insofar as the prices vary according to [confidential] and according to the geographical areas (see above), it has not been established that Le Bon Coin has knowledge of the real price levels charged by SeLogger.
500. Lastly, the UK competition authority recently excluded the existence of coordinated effects in light of, for example, the lack of price transparency in the online property ads market¹²³.
501. In light of the foregoing, the market transparency condition has not been met and, consequently, the risk of the creation, or strengthening, of a dominant collective position of the new entity and of the Le Bon Coin group can be ruled out without having to examine in more depth both other criteria addressed in case law.

6. THE CONGLOMERATE EFFECTS BETWEEN ONLINE PROPERTY ADS AND PROPERTY ADS IN THE PRINT MEDIA

502. A merger has conglomerate effects when the new entity expands or strengthens its presence on several markets, the related nature of which can enable it to increase its market power. Although conglomerate mergers can, generally speaking, give rise to procompetitive synergies, some can, nonetheless, have restrictive effects on competition when they serve to link, technically or commercially, the sales or purchases of the entities making up the conglomerate in such a way as to foreclose the market and exclude their rivals.
503. The *Autorité* considers that it is unlikely that a company with a market share of less than 30% on a given market will be able to foreclose a related market. If this threshold is exceeded, the *Autorité* examines whether the entity arising from the merger would, after the merger, (i) be able to foreclose, (ii) have the incentive to adopt such a strategy and (iii) whether that strategy is likely to significantly harm competition on the markets affected by these bundled sales.
504. In this case, the new entity will own a market share of more than 30% in the online property ads market and in the market for property ads in the print media. The transaction will allow SeLogger to own two property ads magazines in addition to the websites that it will be operating. Insofar as the online property ads market is related to the market for property ads in the print media, the new entity could consolidate the online and “paper” publications.
505. Several third parties have thus expressed their concerns about such a bundling strategy that brings together two publication media.
506. The examination of a strategy to bundle online and “paper” property ads offers is based on an analysis of the market power of the new entity on each of the markets affected by these offers. In this case, the new entity is likely to use its strong position in the market for property ads in the print media or in the online property ads market.

a) The risk of foreclosure in the online property ads market

¹²³ See aforementioned decision of the Office of Fair Trading (“OFT”) Digital/Zoopla.

507. Even though Logic-Immo has high market shares on the market for property ads in the print media, it cannot be regarded as enjoying a market power that is likely to allow for a leverage effect on a related market in light of the decline of this sector.
508. Depending on the publication zones, Logic-Immo has a market share of between [20-30] % and [90-100] % in the market for property ads in the print media.
509. However, the print media market has been in continuous decline for several years now. According to the *Conseil supérieur des messageries de presse*, total turnover on the print media market fell from 10.8 billion euro in 2007 to 7.8 billion euro in 2014. Readers are little by little turning away from this medium in preference for digital platforms in order to obtain the information they are looking for.
510. In 2015, the *Autorité* noted that “*the print media market is progressively changing as print media increasingly goes paperless. According to a recent study, 65% of French people consult the digital version of at least one print media brand, whereas reading paper versions now only accounts for 57% of print media reading*”¹²⁴.
511. The notifying party recalls that the property ads sector has been affected by the transformation of the means of accessing information. [Confidential]. Logic-Immo confirmed this at its hearing: “*In 2008-2009, advertisers started deserting print media, which led to the company facing a large-scale employment preservation plan, scrapping several print editions and developing its digital activities*”.
512. The parties have therefore each reduced their print editions. In 2006, SeLoger stopped publication of its property ads magazine “*Belles Demeures*” while Logic-Immo stopped publication of three editions of its free magazine (Seine-Saint-Denis & Nord Seine et Marne ; Essonne – Val de Marne ; Centre Loire). [Confidential].
513. This shows the decline in print media, which is also confirmed by the turnover trends at Concept Multimédia. In 2010, [60-70] % of the turnover of Concept Multimédia came from its print media activities and [30-40] % from its digital activities. In 2016, these figures were practically reversed: Concept Multimédia derives [60-70] % of its turnover from its digital activities and [30-40] % now comes from print media.
514. An internal document of SeLoger confirms that, between 2012 and 2016, around 6% of the advertising expenditure of real estate professionals was transferred from print media to digital media due to the far superior performance of the latter.
515. Moreover, a bundled scheme can only have an effect on competition on the relevant markets if a sufficient proportion of the buyers is likely to be interested in the simultaneous purchase of the relevant products. However, only [20-30] % of the customers of Logic-Immo currently use print and digital media, which shows that there is little interest in such an offer. Thus, only a minority of customers surveyed for the market test showed interest in a bundled scheme comprising the portal SeLoger and the magazines of Logic-Immo.
516. To conclude, the risk of the foreclosure of the online property ads market can be excluded, primarily due to the decline in the market for property ads in print media.

b) The risk of foreclosure on the market for property ads in print media

¹²⁴ See the decision of the *Autorité de la concurrence* n° 15-DCC-139 of 20 October 2015 relating to the acquisition of sole control of the publication and sale of the newspapers *Le Parisien* and *Aujourd’hui* in France by LVMH-Moët Hennessy-Louis Vuitton group.

517. Unlike the market for property ads in print media, the online market for such ads is growing. An internal document of SeLoger states that the online property ads market for professionals grew by 6% between 2012 and 2016. In this market, the new entity will be the main player and could therefore use the opportunity to establish a bundled scheme for property ads online and in print media. The competitors would not be in a position to make such an attractive offer, as the other magazines do not have well-known portals and the well-known portals do not have any magazines.
518. The company Surface privée, which is the main rival of the magazine Logic-Immo, is thus of the opinion that: *“The dominant position of the new entity risks hampering the launch of a new edition of the magazine in an area already covered by an edition of Logic-Immo and risks destabilising a local edition that is not yet well established in its geographical area”*.
519. A bundled scheme is in fact already offered by Logic-Immo. This portal proposes a P5 offer, *“which allows for both paper and online publication of ads. To be more precise, this enables customers to communicate via the magazine and, at the same time, benefit from other services on the website Logic-Immo.com. On the website, it allows customers to be placed in pole position and therefore have better visibility, as well as send emails every two weeks from the database of internet users that have subscribed to alerts and who are looking for properties”*.
520. In addition, according to the internal documents of SeLoger, a bundle combining the publication of property ads on the internet and in print media appears to have been envisaged: [confidential].
521. Thus, the new entity seems to have the ability and the incentive to develop a bundled scheme. It should be determined whether such a strategy would have a significant effect on the market for property ads in print media.
522. As indicated above, when examining a potential bundled scheme in the online property ads market, it is obviously difficult to precisely assess the impact of the bundling that could be established by the parties following the transaction since the precise form that this bundling would take is not, for the time being, known.
523. For example, even though Surface privée is of the opinion that, if the new entity were to establish bundled schemes, the impact on its turnover would be *“significant”*, it is nevertheless not in a position to quantify it.
524. Three scenarios can be envisaged.
525. If the scheme entails a discount on ads in print media, it is probable that such an offer would not be attractive for advertisers, given the current decline in the print media sector. Indeed, as mentioned previously, a bundled scheme can only have an effect on competition on the relevant markets if a sufficient proportion of the buyers is likely to be interested in the simultaneous purchase of the relevant products. As indicated above, only [20-30] % of the customers of Logic-Immo currently use print and digital media, which shows that there is little interest in such an offer. Only a minority of customers surveyed for the market test showed interest in a bundled scheme comprising the portal SeLoger and the magazines of Logic-Immo.
526. If the scheme entails a discount on online ads, such an offer would be attractive, especially as it would relate specifically to SeLoger. In this case, it is possible that most of the agencies would be prepared to abandon their current magazine to use the magazine of Logic-Immo in order to benefit from the discount on *seloger.com*. However, it would not be in the interests of SeLoger to offer such a discount given its substantial penetration rate on the online property ads market and the low level of profitability of ads in print media.

527. Lastly, if SeLoger decided to impose a bundled scheme or increase its prices on its portal for agencies refusing to subscribe to the magazine Logic-Immo, it would run the risk of losing more customers than it would gain.
528. Moreover, according to the majority of the customers and the competitors interviewed for the market test, the transaction is likely to only slightly reduce competition in the market for property ads in print media.
529. In light of the foregoing, the risk of foreclosure of the market for property ads in print media can be excluded.

B. ONLINE ADVERTISING MARKETS

530. The parties are active in the online advertising sector insofar as the websites that they operate sell advertising space.
531. Axel Springer sells online advertising space on the ads portals that it operates, including SeLoger, La Centrale and StepStone, as well as on the websites *aufeminin.com*, *marmiton.org*, *mylittleparis.com*, *joyce.fr*, *bonial.fr* and *qwant.com*. For its part, Concept Multimédia sells online advertising space on the portal Logic-Immo and its sub-sites.
532. The parties are only active in the online display advertising sector. In France, the *Syndicat des Régies Internet* estimates that the total size of the online advertising market is around 3.5 billion euro, 35% of which is from display advertising¹²⁵. Based on these figures, the notifying party estimates that Axel Springer and Concept Multimedia had a market share of [0-5] % and [0-5] % respectively on the national online display advertising market in 2016. This market share would be even lower on the online display and search advertising market.
533. In the online advertising markets, the parties face competition from Google and Facebook which, alone, have a market share of over 65 % according to the *Syndicat des Régies Internet*¹²⁶.
534. In light of the combined market share of the parties, the transaction is not likely to raise competition issues on the online advertising markets, whether a distinction is made between search and display advertising or not.

IV. Efficiency gains

535. Pursuant to the provisions of article L. 430-6 of the *Code de commerce*, when the *Autorité* makes an in-depth examination of a merger transaction, it “*assesses whether the transaction makes a sufficient contribution to economic progress to offset the harm to competition*”. The *Autorité* examines, in particular, the economic efficiency gains from the transaction likely to increase the incentive of the company resulting from the transaction to adopt procompetitive behaviour.

¹²⁵ See <http://www.sri-france.org/etudes-et-chiffre-cles/observatoire-de-le-pub-sri/17eme-observatoire-de-pub-sri/>

¹²⁶ See http://www.sri-france.org/wp-content/uploads/2017/02/CP_Obs-e-pubSRI-PwC-UDECAM_2016_VF.pdf.

536. Both the French Supreme Administrative Court (*Conseil d'Etat*) and the competition agencies have established criteria for assessing economic efficiency gains. The alleged efficiency gains must therefore be quantifiable, verifiable and specific to the merger and part of the gains must be passed on to the consumers, which excludes the gains benefiting the parties to the transaction only. In addition, it is the responsibility of the parties that wish to assert efficiency gains to develop substantiated and quantified arguments demonstrating that the economic efficiency gains from the transaction are likely to offset its anticompetitive effects, and to provide proof to support this demonstration. This implies that the efficiency gains claimed by the parties are presented in sufficient detail to be able to check their existence, failing which, “*the lack of precision of the data provided does not enable us to establish that the anticompetitive effects of the planned transaction could be offset by a sufficient contribution to economic and social progress*”¹²⁷.
537. In this case, the notifying party has not asserted efficiency gains that should be taken into account within the framework of the competitive analysis. There is therefore no need to analyse the assumption of such gains.

538. In light of all of the information presented above, the transaction is not likely to harm competition on the affected markets. Nonetheless, the *Autorité* reserves the right to intervene, pursuant to articles L. 420-2 or L. 430-9 of the *Code de commerce* in the event that the anticipated scenarios were not to materialise and the new entity were to be in a dominant position and were to abuse this position.

DECIDES

Sole article: The transaction notified under number 17-048 is cleared.

The oral report of Mrs Florence Le Roux and Gwenaëlle Poilon and Messrs Sébastien Lécou and Jérôme Vidal, and the intervention of Mr Étienne Chantrel, Deputy General Rapporteur, having been deliberated on by Mrs Isabelle de Silva, President, chairing the session, Mrs Claire Favre and Elisabeth Flüry-Hérard, Vice-Presidents, Mrs Pierrette Pinot, Reine-Claude Mader-Saussaye, Séverine Larere, and Mr Olivier d'Ormesson, members.

Secretary of the session,

President,

Claire Villeval

Isabelle de Silva

Certified true copy of the original

¹²⁷ French Supreme Administrative Court (*Conseil d'Etat*), ruling in the decision relating to the Coca-Cola / Orangina merger, 9 April 1999, 201853.

Head of the Mergers Unit



Étienne Chantrel