Anticompetitive practices and harm to the economy

Anne YVRANDE-BILLON

Autorité de la concurrence – Chief Economist Team

anne.yvrande-billon@autoritedelaconcurrence.fr
The French Competition Authority

- Independent administrative authority in charge of regulating competition
  → enforces competition rules
  → maintains economic public order

Ensures that the freedom enjoyed by market players in order to innovate, to produce and to market quality goods and services at the best price does not give rise to agreements and abuses that:
  - hinder the competition-based operation of the economy,
  - harm other undertakings and consumers,
  - and ultimately, affect economic growth as well as the welfare of citizens in general.
The French Competition Authority

- Independent administrative authority in charge of regulating competition

- The « Autorité »
  - pursues a policy of proactive market monitoring;
  - drives market players towards compliance with competition rules;
  - prevents, detects, remedies and sanctions infringements to competition rules.
**Recent decisions issued by the French Competition Authority**

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⇒ Why were these practices sanctioned?
Today’s menu

1. Which practices are serious and harmful to the economy? (non exhaustive!)

2. How to assess the harm done to the economy?

3. Case studies
General principles regarding financial penalties

« Financial penalties are proportionate to the seriousness of the facts, to the importance of the harm done to the economy, to the situation of the sanctioned entity or undertaking or of the group to which the undertaking belongs, and to the possible reiteration of practices prohibited » (§3, Notice on the Method Relating to the Setting of Financial Penalties)
1. Anti-competitive practices

Antitrust

Anticompetitive agreements (Horizontal / Vertical)

Abusive practices
Example: Harm caused by a price increase

Welfare transfer from clients to producers (Illegal gain = Excess profit)

Harm done to the economy

Not only the illegal gain

Price increase +20%

Welfare transfer: (6-5)*10=10
Loss of welfare: [(12-10)*1]/2=1

Harm done to the economy: 10+1=11

Price increase from 5 to 6

Sales volume

Demand

Price

Welfare transfer:

Loss of total welfare:

Harm done to the economy:
Harm cause by collusion / monopolization

Competition: Consumers Surplus

P vs. Q graph with curves labeled P(Q), P*, and Pm.
Harm cause by collusion / monopolization

Monopoly / Collusion: Consumers Surplus

Monopoly / Collusion: Producers Surplus
1. A. Anti-competitive agreements

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A. ANTICOMPETITIVE PRACTICES

LEGISLATION

Anticompetitive agreements

10–002 The term “agreement” implies that there is a collusion of wills between at least two natural or legal persons, either public or private. The legal form of the agreement is indifferent. For example, the following practices have been qualified as anticompetitive agreements: exchanges of information on prices and margins, exclusive or selective distribution contracts, general condition of sale, bid rigging during private or public calls for tender, market sharing, and impediments to market access.
1.A. Anti-competitive agreements

*Article L420–1*
*French Commercial Code*

**10–003** Common actions, agreements, express or tacit undertakings or coalitions, particularly when they are intended to:

1—limit access to the market or the free exercise of competition by other undertakings;

2—prevent price fixing by the free play of the market, by artificially encouraging the increase or reduction of prices;

3—limit or control production, opportunities, investments or technical progress;

4—share out the markets or sources of supply

shall be prohibited, even through the direct or indirect intermediation of a company in the group established outside France, when they have the aim or may have the effect of preventing, restricting or distorting the free play of competition in a market.
1.A.1. Horizontal (collusive) agreements

What are cartels and how do they affect consumers?

The categories of conduct most often defined as hard core cartels are:

- Price fixing
- Output restrictions
- Market allocation (share of customers, suppliers, territories)
- Bid rigging (the submission of collusive tenders)

Other forms of horizontal agreements:

- Exchange of information (on prices, demand function...)
- Boycott of a rival
1.A.1. Horizontal (collusive) agreements

What are cartels and how do they affect consumers?

Hard core cartels are the most serious violations of competition law ("unbearable" practices):

• "Such practices are directly aimed at manipulating the key parameters of competition and are the most difficult infringements to detect due to their secrecy"

Hard core cartels are harmful because:

• They injure customers by raising prices and restricting supply, thus making goods and services completely unavailable to some purchasers and unnecessarily expensive for others.
• They result in allocative inefficiency
• They may give rise to technical and X-inefficiencies (lack of incentives)

Hard core cartel prosecution is a priority policy objective for Competition Authorities
1.A.1. Horizontal (collusive) agreements

- Example 1: the laundry detergents cartel (11-D-17)
  - Cartel between 4 producers of laundry detergents active in France (Unilever, Procter & Gamble, Henkel et Colgate Palmolive) between 1997 and 2004
  - Coordination of their commercial strategy (retail price & promotion fixing)
    - All types of products (Ariel, Skip, Le Chat, Dash, Omo, Super Croix, Gama, Persil, & X Tra)
    - Fine of 367,9 millions d'euros → Unilever : 0 (leniency), Henkel : 92,3M€, Procter & Gamble : 240,24M€, Colgate Palmolive : 35,4M€
1.A.1. Horizontal (collusive) agreements

- Antitrust authorities’ policy and actions against cartels
  - **Leniency program**: grant total or partial immunity to firms that denounce cartels and collaborate with the anti-trust authorities

- Antitrust authorities have recently (2001 in France) devoted lots of attention to more sophisticated fine schemes called « leniency program »

  - **principle**: firms who break the law might report their illegal activity if given **proper incentive**

  - In France, incentive = complete immunity (no penalties) given to the first firm reporting a cartel
1.A.1. Horizontal (collusive) agreements

- Example 2: the ‘restoration of historic monuments’ cartel (11-D-02)
  - Collusion between 14 companies specialised in the restoration of historic monuments (churches, cathedrals, abbeys, castles, ...) between 1997 and 2002
  - Market sharing of almost all the public procurement contracts of 3 regions: Basse-Normandie, Haute-Normandie et Picardie.

- Market sharing on geographical basis, bid rigging (cover bids)

\[\text{Note:} \quad \text{"complementary bidding schemes are the most frequently occurring forms of bid rigging and they defraud purchasers by creating the appearance of competition to conceal secretly inflated prices." } \text{(Antitrust Division US DOJ 2005)} \]

\[\text{Note:} \quad \text{"these anticompetitive practices, that aim at misleading adjudicating bodies with regard to the very effectiveness of the tendering process, feature, by their very nature, among the most harmful infringements to competition rules and are among the most difficult to detect due to their secrecy" } \]

- Fine: 10 millions €
1.A.1. Horizontal (collusive) agreements

- Various forms but same ‘ingredients’ of collusion
  - The possibility of cheating is the major threat to cartel stability (Stigler 1964)

- 2 elements must exist for collusion to arise:

  1. Its participants must be able to detect in timely way that a deviation has occurred

  2. There must be a punishment, which might take the form of rivals producing much higher quantities (or selling at much lower prices) in the periods after the deviation, thus depressing the profit of the deviator
1.A.1. Horizontal (collusive) agreements

- Various forms but same objective and same impact on welfare
  - Collusive practices allow firms to exert market power they would not otherwise have
  - Collusive practices artificially restrict competition and increase prices, thereby reducing welfare

- J. Connor & Y. Bolotova (IJIO 2006): meta-analysis made from several studies on the price premia due to cartels
  - On average, price premia are around 20% to 30%
  - Boyer & Kotchoni (WP 2011): more refined analysis with the same database; Result: price premium of around 15%

- Price premia increase with
  - The international dimension of the cartel
  - The duration of the cartel
1.A.1. Horizontal (collusive) agreements

- Examples of price premia found by the Autorité de la concurrence:
  - The « flour » cartel (12-D-09): price premium = 9%, if one considers that the French millers should have applied the same margin as the German millers.
  - The « historic monuments » cartel (11-D-02): after the end of the agreement, prices have fallen by 20-25%.
  - The « Corsican cement » cartel (07-D-08): price proposed by evicted importators = -20%.
  - The « calculators » cartel (03-D-45): average price of school calculators between 1992 and 1995 has increased by 16.3%, while the average price of scientific calculators has decreased by 9.5% over the same period...
1.A.2. Vertical agreements

- Anti-competitive vertical agreement = agreement between two players in a given vertical relation aiming at reducing competition

- Examples of vertical agreements (not necessarily anti-competitive):
  - Retail price maintenance imposed by a manufacturer on its retailers (RPM)
  - Selective distribution (Ex: Chanel perfumes...)
  - Exclusive distribution (Ex: Apple devices, Guerlain perfumes)
  - Tied selling
  - ...

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1.A.2. Vertical agreements

- **Examples**

  - **Toys (07-D-50):** imposed resale prices during Christmas periods, between 2001 and 2003 (5 manufacturers & 3 distributors fined).

  - **Perfumes (06-D-04):** 13 companies manufacturing luxury perfumes and cosmetics guilty of entering into anticompetitive agreements with their distributors, concerning the retail price for consumers. The 3 national distribution chains also fined for the same infringement (Total fine = 46.2M€).

- **Selective distribution** = the manufacturer chooses its sales outlets rigorously (not illegal per se). But the law does not permit upstream suppliers to prevent the selected distributors from fixing its own margins and therefore its own retail prices.
Think about it...

« we refund the difference if you find the same item cheaper »...

02-D-42 : Electrical appliances and audiovisual equipment / agreement between the main distributors and certain manufacturers (Thomson & Akaï)

Such kind of provision reduces the incentive to deviate and make collusion more stable:

- Effect of the provision on the incentive to deviate
- If a firm cuts its price to capture demand, it will have to reimburse its previous customers, who paid the monopoly price
1.B. Abuse of dominance

What is abuse of dominance or monopolization?

- A firm’s ability to raise its prices is usually constrained by competitors and the possibility that its customers can switch to alternative sources of supply.

- When these constraints are weak, a firm is said to have market power and, if the market power is great enough, to be in a position of dominance.

- A dominant position enables to
  - operate independently of the competitive forces prevailing in the relevant market;
  - or affect its competitors or consumers or the relevant market in its favour.
1.B. Abuse of dominance

- **What is abuse of dominance or monopolization?**

  - While mere possession of monopoly power does not in itself constitute violation of competition laws, the abuse of such power - particularly if it is used to weaken competition further by excluding rivals - calls for intervention from competition authorities.

- **Examples of abusive practices typically include:**
  - predatory pricing
  - loyalty rebates
  - tying and bundling
  - refusals to deal
  - margin squeeze
  - disparagement
  - ...
1.B. Abuse of dominance

- practices by a dominant enterprise or group of enterprises considered as abuses:
  - directly or indirectly imposing unfair or discriminatory condition in purchase or sale of goods or service;
  - limiting or restricting production of goods or provision of services;
  - denying market access in any manner;
  - making conclusion of contracts subject to acceptance by other parties of supplementary obligations which have no connection with the subject of such contracts;
  - using its dominant position in one relevant market to enter into, or protect, other relevant market
1.B. Abuse of dominance

- **Example 1: Predatory pricing**

- The story seems simple:

  1. The predator, presumably a large firm that can afford temporary losses, sacrifices profits by charging “low prices”**.

  2. Potential entrants or rivals (smaller firms) do not enter or exit the market because they cannot operate profitably under such conditions.

  3. Having excluded competitors, the dominant firm (maybe monopolist) can recoup its losses (ex post).

- But each step of this strategy raises questions for antitrust authorities.
1.B. Abuse of dominance

- Illustrative case : 14-D-02 (Sports press sector)

  - Sept. 2008, the company Le Journal du Sport announced the launch of a 24-page colour sports daily focusing on football at an attractive price (€0.50).

  - 2 weeks after the announcement, the Amaury Group, owner of newspapers including L'Équipe, Le Parisien and Aujourd'hui en France, itself announced the launch in the coming weeks of a new sports daily entitled Aujourd'hui Sport, whose positioning (format, price, editorial line, and readership) was identical to that of Le 10Sport.com.

  - In late October, the Amaury Group issued a statement claiming that the launch was planned for 3 November, namely the same date as the launch of Le 10Sport.com.
1.B. Abuse of dominance

- Illustrative case: 14-D-02 (Sports press sector)

- In Dec. 2008, Le Journal du Sport, publisher of Le 10Sport.com, filed a complaint before the Autorité de la concurrence. It accused the Amaury Group of unfair commercial practices, disparagement strategies and of putting pressure on advertisers, as well as an exclusionary practice that consisted of launching a new newspaper for the sole purpose of driving out of the market Le10Sport.com.

- In May 2009, officers of the Autorité de la concurrence conducted dawn raids in several premises belonging to the Groupe Amaury and seized numerous documents revealing the Group's strategy to drive out of the market Le 10Sport.com.
1.B. Abuse of dominance

- **Illustrative case : 14-D-02 (Sports press sector)**

  - The notes, documents and tables seized show that the Groupe Amaury had created a plan, known as “Project Shanghai” that was designed to “kill Le10Sport”.
  - The documents in the casefile show that the Group had envisaged three scenarios for challenging the launch of Le10 Sport.com.
    - The first consisted of not reacting at all.
    - The second – the one that was adopted – resulted in the creation of a new daily paper.
    - The third corresponded to a reworking of L'Équipe newspaper.
  - For each scenario, the group had created business plans assessing the costs and benefits that could be expected in terms of finance and circulation.
1.B. Abuse of dominance

- Illustrative case: 14-D-02 (Sports press sector)

  - An unprofitable financial sacrifice even in the long term:
    → It emerges from the casefile that the Groupe Amaury chose a response scenario (launch of a new newspaper) from among several options. This choice was never the most profitable option for the Groupe Amaury, but always the option that would do the most damage to Le 10Sport.com, whether in terms of readership or in financial terms.
    → This choice was an irrational one from an economic point of view for the Groupe Amaury since it generated a major financial sacrifice due to the effect of the cannibalisation of the sales of L'Equipe by the new daily.
1.B. Abuse of dominance

- Illustrative case: 14-D-02 (Sports press sector)

- A daily with an ephemeral purpose

  → The investigation shows that no sales projection performed went beyond 14 months from the launch date. When the chairman of the Group was questioned on the subject of Aujourd'hui Sport's future by the press on 7 November 2008, she indicated that it would “no doubt” be made to disappear in the event of its competitor ceasing publication.
1.B. Abuse of dominance

- Illustrative case: 14-D-02 (Sports press sector)

  - Mission accomplished: restoring the L'Équipe monopoly
    - The strategy implemented by the Groupe Amaury captured some of the 10Sport.com readership, reducing its sales and operating result, and eventually leading to cessation of activity for the daily. By achieving the goal it had set itself, the Groupe Amaury enabled its newspaper L'Équipe to regain its monopoly of the French daily sporting press.
    - An exclusionary practice that harms both the range of products offered and the readership
    - The Autorité de la concurrence fined the Groupe Amaury an amount of 3.5 million euros
2. Assessment of the harm to the economy

How to assess the harm done to the economy?

- What is harm?
  - Loss in welfare (surplus) incurred by individuals or firms because of anti-competitive practices (agreements, ADP)
  - Examples:
    - Price increase
    - Delisting of a product
    - Loss of quality
    - ...

2. Assessment of the harm to the economy (issue 1)

- When the victim of an anti-competitive practice is a firm, harm = loss of profit (or loss of earnings) resulting from the infringement
  - Expressed in monetary units

- Some forms of damage are very difficult to assess quantitatively
  - « Bad example » of agreements between firms participating to a competitive tendering
  - « Deceit of a public buyer »
  - Low innovation
  - ...
2. Assessment of the harm to the economy (issue 2)

- 2 situations to compare:
  - The real effects of the practices correspond to the difference between:

  1. What is observed during the period when the practices have taken place
     - Price, quality of goods, sales volumes
     - Entry and growth of rivals
     - Innovations
     - Etc.

  2. What should have been observed if the practices had not taken place
     - Importance of the baseline situation (« the counterfactual »)
       - Not necessarily perfect competition
     - This counterfactual is by definition hypothetical
2. Assessment of the harm to the economy (issue 2)

- Observed prices
- Price premium
- But for price (counterfactual)

Beginning of the practice | End of the practice
2. Assessment of the harm to the economy (issue 2)

- The baseline situation is hypothetical
  - What would have happened if the practice had not taken place?
  - What would have been the market structure? (Reminder: not necessarily perfect competition)

- It may be possible to refer to:
  - A period which has not been impacted by the practices (before and/or after)
  - A market with similar characteristics, and which has not been impacted by the practices
    - Same product market in another region or another country
    - Market of a similar product
2. Assessment of the harm to the economy

Examples of counterfactuals

- An order of magnitude can be given, before entering into a complex empirical analysis

- Flour (12-D-09): Price premium of 9%, if one considers that French millers should have had the same markup as German millers

- Historic monuments (11-D-02): price cut of 20-25% after the agreement (§658-663)

- Road and traffic signals (10-D-39): body of evidence (various testimonies) indicating a price cut of 10-20% after the agreement broke up (§374)
2. Assessment of the harm to the economy

• Steel (08-D-32) : average markup has decreased by 25% after the agreement was broken (§381) ; Testimony of Mr Y. (§401 et s.): a « reduction of 40€/Ton, induces a loss of around 100 M€ to the producers ..; »

• Perfumes (06-D-04) (§782) : the vertical agreement aimed at limiting to 15% (instead of 20%) the discounts that retailers could propose to final consumers. « as an example, 3 % -conservative assumption- during 3 years correspond to an amount of 72 millions euros »

• Calculators (03-D-45) (§482) : average price of simple calculators has increased by 16,3 % between 1992 and 1995, while over the same period scientific calculators’ price has decreased by 9,5 %. 
2. Assessment of the harm to the economy

4 types of elements to take into account:

1) Scale of the infringement
   • Combined market share, geographical coverage...

2) Objective economic characteristics of the activities, sectors or markets at stake
   • Barriers to entry, degree of concentration, price-elasticity...

3) Short- and medium-term consequences of the infringement
   • All types of effects, potential or real, induced by the practices (expected overcharge, obstacle to a foreseeable price decrease...)

4) Longer-term consequences of the infringement
   • Creation of barriers to entry, exclusion of competitors, decline in product or service quality or innovation...
2. Assessment of the harm to the economy

➢ Scale of the infringement

• Size of the impacted market
  – Did the infringement concern the entire territory?
  – Did the infringement concern the whole range of products? The whole sector?
    * Laundry detergents: all types of standard detergents used by individual consumers (all price positioning, all types of conditioning)
  – Did the infringement concern a (necessary) consumer good?
  – Combined market share of undertakings?
    * Laundry detergents: combined market share of the 4 manufactures in % of turnover = 87-95% → provides stability to the cartel and supports its impact on the sector
2. Assessment of the harm to the economy

➢ Objective characteristics of the sector

• Barriers to entry
  ➔ Limit market contestability and amplify the harm

  – Regulatory barriers?
    * Mobile cartel des mobiles (05-D-65) : regulated market (3 licences) ➔ no threat of entry.

  – « Advertising » barriers ?
    * Laundry detergents (11-D-17) : size of the financial marketing efforts due to consumers’ attachment to brands

  – Technoloc barriers? Non redeployable investments?
2. Assessment of the harm to the economy

➢ Objective characteristics of the sector

- Position / Market power of concerned undertakings
  - Laundry detergents (11-D-17): MS of the 4 producers btw 87% and 95%: provides stability to the cartel and supports its impact on the sector
  - Perfumes (06-D-04): exonerating facts = suppliers have neither an individual dominant position, nor, with the other suppliers, a collective dominant position that could impact on the interbrand competition.
  - Large retailers sector: presents itself as having an aggressive pricing policy (Calculators 03-D-45, Video cassettes 05-D-70, Toys 07-D-50)

- Counter-power of buyers
  - Can limit the scope of the agreement (Endives 12-D-08)
2. Assessment of the harm to the economy

➢ Objective characteristics of the sector

• Consumers’ price sensitivity
  ▪ Unavoidable purchases (Laundry detergents, Flour, Bakers of la Marne 04-D-07, §143)
  ▪ Market of recommended products (Calculators 03-D-45)
  ▪ New budget for consumers (Cartels des mobiles 05-D-65)

• Early phase of development of the market
  ▪ Voyages-SNCF.com 09-D-06

• Particular responsibility of the historical operator in a context of liberalization (TDF/Towercast; Fret SNCF)
2. Assessment of the harm to the economy

- Effects

  - Overcharge
  
  - Exclusion of rivals
  
  - Technical inefficiencies
  
  - Reputational effects
    
    * On rivals
    
    * On incumbent (reputation of being a predator)
  
  - ...

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3. Case studies

UP TO YOU NOW !!!!
Case study n°1

- Decision 13-D-11 (« Plavix »)

- The undertaking: Sanofi-Aventis, a subsidiary of the Sanofi group and French leader of the pharmaceutical industry
- The product: SA began to market Plavix® in France in February 1999.
  - Plavix® medicine's active ingredient is clopidogrel. It was granted a marketing authorisation on 15 July 1998. It is mainly prescribed by general practitioners and cardiologists in private practice, in the framework of ambulatory care. The Plavix® medicine is used to prevent complications from atherothrombosis, a disease resulting in arterial stiffness and which may lead to lesions on artery walls and cases of thrombosis (blood clots).
Case study n°1

- Decision 13-D-11 (« Plavix »)

- The product: SA began to market Plavix® in France in February 1999.
  - Even though the patent protecting this medicine in Europe expired in July 2008, Sanofi-Aventis filed complementary patents in order to extend this initial protection:
    - The type of salt use in Plavix (hydrogen sulfate) remained protected until February 2013 and, consequently, the generic versions of Plavix®, apart from the one marketed by Sanofi-Aventis itself, had to use a different salt;
    - The instruction on treatment for acute coronary syndrome (ACS) in double therapy, through the combination of clopidogrel and acetylsalicylic acid (aspirin), also remains protected by the patent due to expire in February 2017.
Case study n°1

- Decision 13-D-11 (« Plavix »)

- The product: SA began to market Plavix® in France in February 1999.
  - The variations in salts and therapeutic indications of Plavix®'s generic competitors, only due to intellectual property issues rather than to specific chemical or medical characteristics, have no impact on the bioequivalence and substitutability of these medicines; this goes for all pathologies treated by Plavix®, including ACS. Indeed, as soon as a specialty generic is listed in the generics' directory, no legal or regulatory provision may prevent its prescription in substitution to the reference specialty, even if the specialty generic did not provide all the therapeutic indications of the latter.
  - The first clopidogrel generic competitors of Sanofi-Aventis were marketed at the beginning of October 2009.
Case study n°1

- Decision 13-D-11 (« Plavix »)

- The facts:
- Sanofi-Aventis implemented a global and structured communication strategy, with an aim to influence doctors and pharmacists in order to stop the generic substitution process at two key stages:
  - At the prescription stage, by convincing doctors to insert the indication “non substitutable” to the prescriptions, so as to limit the substitution of Plavix® by a generic medicine;
  - At the substitution stage itself, by encouraging pharmacists to substitute Plavix® by its own generic medicine, Clopidogrel Winthrop®, to the detriment of generic competitors.

- Substantial feedback provided by the CNAMTS establishes that doctors were greatly influenced by this discourse. Here are a few examples:
Case study n°1

- Decision 13-D-11 (« Plavix »)
  - A serious practice, which substantially curbed the substitution process of Plavix® by generics
    - Sanofi-Aventis' discourse created uncertainty about the quality and safety of generic medicines, without any evidence for basis since nothing shows that Plavix®'s competing generics are less safe that the originator.
    - This misleading discourse gave rise to real concerns among healthcare professionals; all the more widely echoed that:
      - Plavix® and its generics are used to treat very serious cardio-vascular conditions (life-threatening illnesses for the patient) and that their taking requires a specific follow-up insofar as it may increase the risk of haemorrhages;
      - in general, healthcare professionals are weary of new medicinal products for which insufficient time was available for evaluation;
      - there remains, moreover, among healthcare professionals, some reluctance towards generic medicines; it can be explained in particular by their ignorance of MA procedures, by their wrong appreciation of the regulatory framework on substitution and by their will to protect themselves from being held liable, in either civil or criminal terms.
Case study n°1

- Decision 13-D-11 (« Plavix »)

- An abnormally low substitution rate
Case study n°1

- Decision 13-D-11 (« Plavix »)

- An abnormally low substitution rate
  - Case documents show that the substitution rate for Plavix® follows a very atypical pattern:
    - despite great volumes and turnover, as well as numerous generic labs operating in the market, this rate, after it soared when generic were introduced, then experienced a steady decline for numerous months; no other similar molecule experienced such a pattern (see graph)
Case study n°1

- Decision 13-D-11 (« Plavix »)

  - the price of a generic medicine is significantly lower than the price of the reference originator (the discount is usually set at 55% of the manufacturer's price, excluding VAT)

  - savings of more that €200 million were expected in the 2010 results by the Ministry of Healthcare, thanks to the launch of Plavix® generics (it was expected that these generics should account for 75% of all sales by end 2010)

  - However, in its report on the results for 2010, the Sécurité sociale (Public health care system) notes that “the effective penetration rate of the clopidogrel at end-December 2010 [was] lower by 10 points than the targeted rate (64.6% vs. 75%)”.


Case study n°1

- The practice at stake also resulted in an exceptional penetration rate for Sanofi-Aventis' own generic medicine, Clopidogrel Winthrop® (now called Clopidogrel Zentiva®).

- This product enjoys a market share of over 34% in the clopidogrel generics segment; in other words its market share is four times greater than the one usually held by Sanofi-Aventis in the French generic medicine market.
Case study n°1

- Decision 13-D-11 (« Plavix »)

- A practice constituting an abuse of a dominant position:
  - On the basis of all these elements, the Autorité de la concurrence found that Sanofi-Aventis abused its dominant position in the French market of clopidogrel prescribed by ambulatory care.
  - Sanofi-Aventis was fined a total of €40.6 million for implementing a denigration strategy. This strategy was aimed for healthcare professionals (doctors and dispensary pharmacists) and against generic versions of Plavix®, with a goal to limit their entry in the market and favour Sanofi-Aventis' own products, the originator Plavix® medicine and its generic version marketed by Sanofi-Aventis, Clopidogrel Winthrop®.