

I. Introduction

For the Directorate-General for Competition, Consumer Affairs and Fraud Control (DGCCRF), 2005 will go down as a turning point.

Several major texts were adopted. Crowning over one year of government and parliamentary work, alongside intense consultation with professionals and consumer associations, the August 2, 2005 Law reformed the framework within which sales relations between suppliers and distributors play out. It is expected to foster healthier sales practices and have beneficial effects on retail prices. A number of significant texts also came out, clarifying and adding to the DGCCRF's investigative powers and reforming the workings of the Conseil National de la Consommation (National Council on Consumer Affairs).

In the field, its activities reached a new level, both in terms of the number of enquiries conducted – the number of establishments visited increased by 6%, particularly in response to the effort requested by the Minister in the course of Summer 2005 – and the quality of the results achieved. The latter are due both to the constant commitment of the DGCCRF's teams and improved enquiry planning, made possible by a National Guidance Directive, inaugurated in 2005, which immediately proved an efficient tool. In the field of competition, one example of progress achieved was a charter signed early in the year with the Conseil de la Concurrence, (the Competition Council) helping strengthen relations with the said authority. The DGCCRF carried out a number of high-profile investigations at the Council's request, such as the one that led, at year's end, to the conviction of France's mobile telephone operators. It also made enquiries in response to cases specifically referred to it, including the 15 referrals made by the Ministry in 2005. 118 merger decisions were adopted, many as a result of

an in-depth investigation, even as the DGCCRF made public its guidelines for companies.

In the field of consumer affairs, the DGCCRF's Investigation and Laboratory Departments continued to take action to ensure that consumers are accurately informed, and to check product safety – both of these forms of action have been the Directorate's responsibility for 100 years, as celebrated with the Commemoration of the August 1, 1905 Law on fraud control. The Directorate confirmed its ambition to be more present in the field of industrial product safety. It also innovated by taking action in sectors where it had little activity until now, such as banking, and by leading initiatives, at the request of the relevant ministers, to stop the rise of disputes in the field of electronic communications (31 000 complaints were filed with the Directorate's offices in 2005, in telephony and Internet access alone!).

2005 will also have been a decisive year where modernizing the Directorate-General is concerned. A Decree was drafted to modify the territorial organization of the Directorate-General (adopted on January 26, 2006). The DGCCRF's network of laboratories was merged with that of Customs, as announced by the Minister. The September 2005 meeting that brought together all of the Directorate's employees was a highlight in the DGCCRF 2008 strategic planning process.

Those are just some of the major thrusts for 2005, illustrated in this report and complemented by a range of other important events.

Guillaume CERUTTI

Director-general

2. Key Dates in 2005

28 JANUARY

The DGCCRF and the Competition Council sign a **Cooperation and Objectives Agreement** to reduce case processing times and strengthen exchanges between the rapporteurs and investigators. On 3 February, a memo reforms the working procedures of the DGCCRF's Competition Network.

28 JANUARY

The Law intended to consolidate consumer confidence and protection ("**Chatel Law**") is adopted, strengthening consumer rights, in particular as regards the cancellation of certain contracts and renewable loans.

15 FEBRUARY

The Interministerial Committee on Consumer Affairs, chaired by Christian Jacob, meets to scrutinize the **Plan to Prevent Accidents in Everyday Life**.

3 MARCH

A **health alert** shows an unusual number of very young children affected with Salmonellosis, after having consumed baby milk. This issue is

handled by the DGCCRF departments, which carry out the analyses in laboratory and monitor the required measures of withdrawal.

14 MARCH

Adoption of a decree that makes in-depth changes to the working procedures of the **National Consumer Council (CNC)**, by giving it the means to be more responsive. On 7 July, Thierry Breton, Minister of the Economy, Finance and Industry, convenes the CNC for the first time in its new formation and presents a broad outline of his consumer protection policy.

12 APRIL

Following the French President's announcement, during his Address to the Nation's Workers, a working group on consumer **group action** is set up. The working group hands in its report to Thierry Breton and Pascal Clément, Minister of Justice, on 16 December.

10 MAY

Meeting of the Joint Ministerial Technical Committee (CTPM) approving the draft decree on regionalizing the DGCCRF's territorial organization and the draft order modifying the **central administration's organization**. On 7 July, a further meeting with the Joint Ministerial Technical Committee takes place, at which it is announced that the DGCCRF's laboratories are to merge with those of the Customs Department.

6 JUNE

The 6 June Order incorporates into French law the **European Distance Marketing of Financial Services Directive** and offers greater consumer protection, in particular as regards the right to retract.

13 JULY

Launch by Thierry Breton of the Interministerial 2005 Holiday Operation "**Vacances Confiance**" in Houlgate (Calvados). It leads to 183 300 inspections by DGCCRF teams over the course of the summer.

15 JULY

Following a public consultation process, DGCCRF officializes its **guidelines on concentration control**. The document is intended to provide support to companies and their boards, in order to improve transparency and predictability in national consolidation control.

2 AUGUST

The 2 August 2005 Law in favor of small and medium-sized companies is the culmination of the process embarked upon by the Government to clarify relations between **suppliers and distributors** and fight backdoor sales. The law institutes the possibility of plea bargaining on certain offences (Commercial Code). A circular issued on 8 December 2004, drafted by the DGCCRF, explains some of the law's provisions.

1 SEPTEMBER

The 1 September 2005 Order institutes the possibility of plea bargaining between the offenders and the administration, on violations of the Commercial and Consumer Codes, and gives the DGCCRF new powers : administrative order where illegal action occurs under Books I and III of the Consumer Code and **injunctions to cease practices** before civil courts in order to put an end to the said actions.

5, 6 and 8 SEPTEMBER

Three one-day events, on the 5th of September in Lyons, the 6th in Paris and the 8th in Bordeaux, brought together **all DGCCRF's workers** for the first time, to engage in a dialogue on the strategic plan entitled "DGCCRF 2008". The same was done on 15 September in Réunion and Antilles-Guyana, and on 13 October in Saint-Pierre-et-Miquelon.

16 SEPTEMBER

A protocol is signed at the Ministry of Economy, Finance and Industry, between DGCCRF, Customs, the French National Institute of Denomination of Origin (INAO), and the National Interprofessional Office on Wines (ONIVINS), to strengthen cooperation between government institutions in the **wine-making sector**.

20 SEPTEMBER

A conference, held at the University of Perpignan, commemorates the **100th Anniversary of the 1 August 1905 Law on Fraud Control**, which founded consumer protection and the role of the DGCCRF. Another conference is organized at the University of Pau on the same topic, on 25 November.

The 17 November, a Scientific conference on grains is organized in Tourcoing, by the DGCCRF's laboratories in Lille-Villeneuve d'Ascq.

27 SEPTEMBER

A round table on **electronic communications** is held at the Ministry of Economy, Finance and Industry, chaired by François Loos, Minister of Industry. Planned by the DGCCRF, it helped bring out a number of measures to better protect consumers in a sector where the wealth and complexity of supply often gives rise to disputes. Bearing witness to this are the 31 000 complaints received by the DGCCRF in 2005.

30 NOVEMBER

Decision 05-D-65 handed down by the Competition Council inflicted penalties on France's **three mobile telephone operators**, totaling EUR 534 million : Orange France (256 million), SFR (220 million) and Bouygues Télécom (58 million) for having implemented hidden agreements, uncovered by a DGCCRF investigation carried out following an own-initiative enquiry by the Council and a referral by UFC-Que Choisir consumer magazine (the decision is now being appealed by the operators).

21 DECEMBER

Thierry Breton addresses the **Council of Ministers** on France's policy in favor of consumers.

27 AND 30 DECEMBER

Adoption of three decrees regarding the enforcement conditions of Book IV of the Commercial Code, appeals made to the Paris Court of Appeal against Competition Council decisions and setting up the list and extent of specialized jurisdictions.

3. First National Orientation Directive (DNO) in 2005

In late 2004, the DGCCRF drew up a National Orientation Directive (DNO) for 2005, thereby giving a concrete form to the annual planning process on its activities (inquiries).

As a result, the Directorate-General now has guidelines that are clearly stated and easier to understand, with better defined annual targets, which are expected to help it fulfill its duties with greater efficiency.

11 national objectives were set out for 2005, and complemented by regional objectives.

Naturally, the everyday activities on the ground were continued.

THE 11 NATIONAL OBJECTIVES

- 1) Implementing tighter control over commercial practices between mass retailing and their suppliers.
- 2) Stepping up inspections to better prevent accidents in everyday life.
- 3) Stepping up the fight against counterfeiting.
- 4) Monitoring the realities of competition in sectors involving networks.
2005 focus areas: power, telephony, information and communication technologies.

- 5) Checking compliance with competition rules in the field of public procurement.
2005 focus areas: hospital-related markets, the tracking of major national and local projects.
- 6) Monitoring the operations of certain vulnerable agricultural sectors.
2005 focus areas: wine and fruits/vegetables.
- 7) Monitoring competition conditions in the sector of B-to-B services.
2005 focus areas: equipment rental, security guarding and video surveillance services for sites, compliance with payment deadlines in the building and public works sectors.
- 8) Performing checks to ensure fair practice and safety in the field of food products.
2005 focus areas: grains and grain products, dairy-based desserts.
- 9) Improving transparency and ensuring fair practice in the financial services and insurance sectors.
- 10) Ensuring regulation and consumer protection on health-related markets.
- 11) Performing checks on the workings of environment-related markets.

4. DGCCRF Organization and Resources

I. STRUCTURES

1.1. CENTRAL ADMINISTRATION IN PARIS

The Central Administration Department determines the general orientations vis-à-vis the controls to be effected and the actions to be taken, and is responsible for managing, steering and assessing the decentralized departments and departments with national competence. Its organization was reformed by the Order issued on 10 June 2005.

It is now composed of two departments. One encompasses the sub-divisions responsible, respectively, for coordination of the decentralized departments, human resources and resource management. The other department is responsible for five sub-divisions: competition; consumer protection; agricultural and food products; health, industry and trade; and services and networks.

In total, the sub-divisions house 24 offices. In 2005, the central administration employed 416 workers.

1.2. DEPARTMENTS WITH NATIONAL COMPETENCE (SCN)

The DGCCRF has four SCNs.

• The National Department for Enquiries on Competition, Consumer Affairs and Fraud (DNECCRF).

This division is in charge of particularly important enquiries requiring checks all over the country.

• The Laboratories Division

To perform the checks, analyses and trials on product samples taken by

its decentralized departments, the DGCCRF is equipped with an integrated network of nine laboratories. The network is one of the DGCCRF's driving forces, enabling it to ground its action in analysis findings that are impartial and independent from any manufacturing, import or distribution structure. Following on the opening of a laboratory in Lyons-Oullins in 2003, the laboratory currently housed by the University of Talence will be transferred to Bordeaux-Pessac.

Faced with increasingly demanding regulations and anomaly detection requirements, the DGCCRF's network of laboratories dedicated EUR 1.2 million to renovating its tools and instruments.

Launched in 2003, the work to bring together the DGCCRF's laboratories with those of the DGDDI (Customs) led to an announcement, in July 2005, by the Minister of Economy, Finance and Industry, that the two networks would merge. This is expected to be effective as of 1 January 2007. The reform is designed to build the skills of an analytical structure with nearly 470 workers.

• The IT Department

Present in three cities: Paris, Lyon and Montpellier, this department is responsible for operating and updating the DGCCRF's information system. It also advises various members of staff and assistants working in regional seats of administration on the maintenance and replacement of hardware and software. It also provides local training in the use of new software.

• The National College for Research on Competition, Consumer Affairs and Fraud Control (ENCCRF).

Based in Montpellier, the college also has facilities in Montreuil. It

currently provides both initial training, intended for trainee inspectors, and continuous professional training actions.

1.3. DECENTRALIZED SERVICES (LOCAL SERVICES)

2005 was the year when the DGCCRF underwent major structural reform, with **the regionalization** of its decentralized services.

The 26 January 2006 Decree asserts the pre-eminent role now assigned to the regions in the Directorate-General's decentralized organization.

The new organization fits in perfectly with the reform of national-level government structures and the new public management system, aimed at efficiency, high-quality service and better resource management.

The reform's three strong points are:

- the creation of a hierarchical link between the regional director and the local *département* director,
- the region becomes the reference entity in fulfilling duties,
- each civil servant belongs to the region and may be delegated to the local *département* level.

23 regional directorates now govern 101 local *département* directorates. In addition, eight regional directorates have special powers in conducting enquiries on competition, in the field of wine-making and, since 2005, in managing the implications of the budget reform law, LOLF.

2. HUMAN AND FINANCIAL RESOURCES

In 2005, the DGCCRF's human and material resources were comparable to those of previous years.

Like all other departments within the Ministry, the DGCCRF took part in a drive to reduce staff numbers.

Between 2000 and 2005, the variations observable in, notably, capital investment loans and payroll credits, were due, respectively, to the periodicity of the financing of real estate and laboratory investments and the taking into account of credits formerly recorded in budget lines not taken charge of by the Directorate-General. In 2005, the DGCCRF's financial resources were very similar to those of the previous year.

The Directorate-General's funds for 2005 was allotted so as to "prefigure" the LOLF. All operating funds (payroll, equipment and action) were combined under a single heading, subdivided into articles for each of the Directorate-General's types of action (regulation of competition on the markets, economic consumer protection, consumer safety and support). The "operational programmed budget managers" (inter-regional level) were informed of the respective amounts set aside for payroll, and sub-delegated the other funds to the "operational unit managers" (regions). The asymmetric fungibility procedure was implemented in all decentralized units.

2.1. MAIN DEMOGRAPHIC DATA

The proportion of women working on the staff continues to rise, particularly in Categories A and B. Amongst workers above age 50, women accounted for 35.3% of the total; amongst those under 30, the percentage was 60%.

2.2. RECRUITMENT AND TRAINING

The high standard of qualification among employees is the result of recruitment procedures based on selective national competitive examinations. Applicants can sit whether the economy/law exam or the science exam following their skills. That initial qualification is built upon through extended initial training, based on the concept of hands-on field work and an instructional programme that alternates theory and practice. The continuing education system takes over from that point and is built around simple concepts: integrating task planning and annual objectives as a structuring thrust, and ensuring that the technical, legal and economic skills required in each position are available at all times, by annually surveying requirements across the organization.

The number of training beneficiaries increased from 2391 in 2004 to 2539 in 2005 (number of individuals having taken part in at least one training programme during the year). The total number of participants trained during the year was 5646 (average participation frequency is 2.2). Overall training provided as in-service training was equal to 2% of overall time worked.

3. IMPLEMENTING THE PERFORMANCE-BASED APPROACH

The DGCCRF has set up an objective- and resource management system in accordance with the LOLF, intended to better empower senior unit managers by giving them greater room for maneuver, based on performance objectives.

Since 2005, the Operational Programmed Budget (BOP) level selected to locally implement the LOLF programme where enquiries are concerned is the inter-regional level. All of the regions are considered operational units (see above).

The new organization carries with it a performance approach based on objectives and indicators. Technically, it relies on an information system that allows it to memorize and track activity on specific missions and how that activity is conducted in terms of work time.

Based on the system's output, strategic objectives are set at the national level and for each region. They pertain to the improvement of field coverage, and the measure of the impact of the Directorate-General's actions, in terms of fallout and benefits gained by the various target populations.

The results observed in 2005, as measured against the existing indicator system, are as follows:

	2004	2005	2004/2005	
			absolute	relative
Field Action				
VOLUME OF ACTIVITY				
Number of establishment inspections carried out	224,357	233,961	9,724	4.3%
Number of controls effected (total)	904,223	975,200	70,977	7.8%
Number of samples taken	44,456	42,114	-2,342	-5.3%
Number of indices of anti-competitive practices recorded	523	543	20	3.8%
Time devoted to enquiries (in % of time worked)	72.4	72.6	0.2	0.2%
PREVENTION				
Number of prevention and information-gathering actions carried out	2,728	2,164	-564	-20.7%
Number of Regulatory Information Notifications sent out	13,447	19,352	5,905	43.9%
IMPACT				
Rate of backfitting recorded at the time of controls made after reminders concerning the regulations have been sent out (in %)	88.5	89.5	1.0	1.2%
Responsiveness and Internal Processes				
Average time for handling criminal litigation	86	80	-6	-7.1%
Average time taken to process samples - Total (in days)	36	35	-1	-8.1%
Services rendered to the general public				
Average time taken to answer requests for information received from our target groups	37	12	-24	-66.2%
Percentage of requests for information processed within 10 days	62.3	76.1	13.8	22.0%
Average time taken to respond to complaints	108	89	-19	-17.7%
Satisfaction rates expressed by the target groups	86.1	86.5	0.4	0.4%

5. Modernization: The “DGCCRF 2008” Plan

In 2005, the DGCCRF launched a joint process to draft a strategic modernization plan spanning three years. It needs to deal with demands that are increasing in number and complexity, resulting from market liberalization and the development of new services, against the backdrop of European integration. The expectations of the business community, consumers and professionals need to be better taken into account. According to a CREDOC survey, consumers feel they are not well-protected enough in a number of sectors, including banking, insurance, housing and electronic communications. The process was also intended to better establish a culture based on objectives and results.

In the first phase, a broad consultation of all Directorate-General workers was launched on a pre-draft published online and based on interviews with managers about the issues at stake and methods for improving operations. Over 300 responses were received through coordination meetings in the various departments, individual or group contributions in writing and exchanges on an electronic forum.

1. THE SEPTEMBER 2005 MEETINGS

The participatory approach continued with a meeting involving the entire staff, during events in Lyons, Paris and Bordeaux, as well as in the overseas departments, in September, enabling frank debate between the teams and management, based on an audiovisual survey conducted with 54 workers representing all ranks and functions, and focusing on the future of the department, its strengths and its weaknesses.

Discussions on the project were enriched by the results of a CREDOC survey on consumer expectations regarding the DGCCRF's missions and interviews with 12 outside personalities (former Ministers of Consumer Affairs, lawyers, presidents of consumer associations, etc.).

This bottom-up process made it possible to bring out plan that meets the major challenges due to changes in the DGCCRF's environment. It helped establish priorities in the improvement plans, all the while creating awareness of the need for change.

2. MAIN LINES AND RELATED PROJECTS

Four main lines have been set out: adjusting action to changes in the environment, improving the efficiency of actions carried out, working better together and improving the quality of human resources management. The main lines have been expressed in 15 commitments.

Adjusting actions to suit the changes in the environment

The DGCCRF's aim is to refocus its core activity, by taking into account the changes that have arisen on the markets and strengthening cooperation with the other inspections departments and with the consumer movement.

To better set its priorities, it needs to constantly remain abreast of market developments so as to anticipate possible difficulties for the consumer. When new markets are opened to competition, this implies that competition regulations must be extended; with the economy becoming

increasingly focused on the services sector, checks must focus more frequently on services; lastly, there are new forms of commerce, package offers combining products and services, and broader product circulation, implying greater watchfulness on the safety of industrial products.

Four operational commitments were made pursuant to this strategic line, with regard to the DGCCRF's missions:

- 1 – better allocate teams between the three main missions
- 2 – be more present in new sensitive sectors
- 3 – balance out action in the field of safety
- 4 – boost partnership with the consumer movement

Make actions more effective

This strategic line comes in response to the DGCCRF's desire to better meet the public's expectations, but increasing the impact of its action with respect to the resources allotted to it.

In particular, this means using all legal and non-legal instruments available to ensure that the market works in a fair and safe manner. This can involve administrative police measures to bring the product into compliance, withdrawal from market, establishment closings) or the use, under a judge's supervision, of measures with repressive intent, which are alternatives to criminal proceedings, and which make it possible to speed up the legal process (criminal order, criminal fine, plea bargaining, etc.).

Alongside this, to improve the Directorate-General's results, a performance-based culture must become widely established – this implies defining performance indicators that are clear, acceptable and improvable.

Lastly, the DGCCRF's action can be strengthened by improving external communications and internal communications alike.

The three strategic lines are thus as follows:

- 5 – Ensure that action does give rise to fall out
- 6 – Improve performance measurement
- 7 – Communicate more effectively

Working better together

The consultation carried out in Spring and Summer 2005 clearly demonstrated that better sharing information between units, sharing experiences and skills and better establishing the connections between the DGCCRF's various components (central administration, decentralized units and laboratories) can make a marked contribution to improving the Directorate-General's efficiency.

4 commitments have been identified to develop the Directorate-General's effectiveness:

- 8 – Bring the central administration and the decentralized departments
- 9 – Successfully complete the regionalization process
- 10 – Maintain and strengthen the tie between the units and the laboratories
- 11 – Share information about best practices

Improving the quality of human resources management

Improving the quality of human resources management is a vital component of change management: bringing recruitment criteria and training forward, to support new priorities. Fast-track career development paths and improved working tools need to be developed to recognize the efforts made by the civil servants to successfully complete the reforms and reorganization processes underway.

The 4 related commitments are as follows:

- 12 - Adjust recruitment practices in line with issues at stake
- 13 – Improve training
- 14 – Revitalize career development
- 15 – Improve the quality of working tools