



INTRODUCTION

The keynote of 2006 was continuity for the General Directorate for Competition Policy, Consumer Affairs and Fraud Control (DGCCRF) as several major projects undertaken in 2005 took concrete shape. Nonetheless, it was also a year of preparation for the future, as the stage was set for future action in the areas of competition as well as consumer protection.

At the top of the list of projects launched previously and implemented in practice in 2006 are those related to the modernisation of government agencies and their resources. The decree of 26 January 2006 marked a turning point in the organisation of DGCCRF, by making its regional offices the key echelons of a decentralised organisation. The new organisation was deployed in the field throughout 2006. In a similar vein, the order of 14 March 2006 established the joint laboratory service, uniting the formerly separate networks of the General Directorate of Customs and Excise (DGDDI) and DGCCRF. Additionally, DGCCRF on 20 June 2006 signed its first three-year performance contract, which defines its strategic goals to 2008 and guarantees the allocation of the necessary financial and human resources over that period. The consultation process put in place within DGCCRF in conjunction with this contract received a Public Service Quality Award. During the first year of the three-year term of the performance contract, DGCCRF attained its key objectives: for the first time in 2006, the number of inspections topped 1 million (an increase of 3.3% over 2005) and, based on its overall performance, the employees of DGCCRF were able to take advantage of the collective performance incentive mechanism in place at the Ministry of Economy and Finance. 2006 was also the year in which several memoranda of cooperation were completed and signed, reflecting DGCCRF's aim of taking a partnership approach to the implementation of its prerogatives. Such documents were finalised with the Customs administration (DGDDI) regarding industrial product safety, the fight against counterfeit goods, and laboratory work (agreement of 8 February 2006); with the Direction générale de la Santé (General Directorate for Health) and the Direction générale de l'alimentation (General Directorate for Foods) regarding food safety (agreement of 29 December 2006); and with the Agence Française de Sécurité Sanitaire des Produits de Santé (AFSSAPS, the French Health Products Safety Agency) regarding pharmacologically active drugs (agreement of 26 December 2006). In the same spirit, DGCCRF for the first time implemented three-year contracts based on agreed objectives and means with the 18 officially-approved consumer protection associations operating in France, as well as with the Institut National de la Consommation (National Consumers' Institute).

The French law of 2 August 2005 in support of Small and Medium Enterprises (SMEs) was also applied for the first time in 2006. The change in the method for calculating the lowest authorised resale price had the anticipated impact on mass market price levels: they rose by a mere 0.7% from February 2005 to February 2007, compared to a rise of 2.9% in the consumer price index over the same period. Meanwhile, DGCCRF stepped up its efforts to detect and prosecute unfair practices observed in the commercial dealings between distributors and suppliers.

In terms of steps that set the stage for future projects, the reader's attention is drawn to the draft consumer protection legislation presented to the French Council of Ministers on 8 November 2006. The bill contains several provisions essential to raising the level of consumer protection, such as the introduction of class action suits in French law, the effort to combat unfair terms of contract, the elimination of charges applied to waiting time for telephone hotline and after-sales services, the reform of regulations governing seasonal sales, and the reinforcement of DGCCRF's powers in certain sensitive sectors, such as real estate. The bill could not be debated during the last session of Parliament, but will most certainly constitute a key component of the policies that will be undertaken in these areas.

The energy law of 7 December 2006 makes arrangements for the opening of gas and electricity markets for retail customers, which will take effect on 1 July 2007. DGCCRF will be entrusted with the task of verifying conditions in these markets in terms of the reality of competition and the relations between operators and consumers.

The remarkable work accomplished throughout 2006 under the aegis of the Conseil national de la consommation (National Consumer Affairs Council) to improve the quality of service provided by the operators of electronic communications is expected to bear fruit in the months and years ahead. DGCCRF will check to ensure that the ten positions adopted – on issues such as the provision of paper or other hard-copy contracts, the termination of contracts, the handling of disputes – are being enforced and that they allow for a reduction of the number of complaints in this sector (DGCCRF again received more than 29,000 customer complaints in 2006).

On another front, DGCCRF has launched several communication initiatives aimed at nurturing full-fledged "competition education" and promoting France's role in the "Concert of Europe." These efforts, which will be pursued in 2007, are supported by the organisation of a symposium on the regulation of agricultural markets, a training seminar for the high-level executives of the Ministries, the co-hosting (with the Conseil de la concurrence, the Competition Council) of the



annual meeting of the European Competition Authorities, and the holding of an international seminar in Lille on the theme of cross-border cooperation in the area of consumer protection.

Finally, a number of specific matters required DGCCRF's attention in 2006, putting its responsiveness to the test. For example, the merger between the television operators Canal + and TPS was authorised by the decision of 30 August 2006, subject to compliance with 59 commitments aimed at preserving competition in the sector of pay television.

Guillaume Cerutti
General Director

2006 MILESTONES

26 January

Adoption of a decree concerning the decentralisation of services at DGCCRF, which are organised into regional offices with an entity in each *département* lying within their territorial jurisdiction.

8 February

Signing of a memorandum of cooperation between DGCCRF and the General Directorate of Customs and Excise (DGDDI) concerning laboratory work, industrial product safety and the fight against counterfeit goods.

1 March

Meeting of the Conseil national de la consommation (National Consumer Affairs Council) in Brussels in the presence of the European Commission.

7 March

Symposium organised by Institut des Sciences Politiques and DGCCRF: *“Appropriate regulation of agricultural markets”*.

20 March

Adoption of a decree to transpose the European Directive on food supplements, defining a stricter regulatory framework for these substances.

26 April

Inauguration by Thierry Breton, France's Minister of Economy, Finance and Industry, of the new DGCCRF/DGDDI joint laboratory in Pessac, France.

4 May

Decree adopted in application of the Act of 1 September 2005, defining the procedure for implementation of the transaction.

18 and 19 May

Meeting of the European Competition Authorities (ECA) in Nice, France, organised jointly by DGCCRF and the Conseil de la concurrence (Competition Council).

20 and 21 June

Signing of the multi-year performance contract and presenta-

tion of the Public Service Quality Award to DGCCRF for its “DGCCRF 2008” modernisation project.

July/August

“Vacances Confiance” (“Take Holidays in Confidence”) campaign, involving about 186,000 inspections.

11 July

Publication of the *Guide pratique des communications électroniques*, a users' guide on electronic communications, written for the general public under the aegis of the Conseil national de la consommation (National Consumer Affairs Council) (30,000 complaints filed with DGCCRF in this sector in 2006).

21 July

Signing of a contract of agreed objectives and means by DGCCRF and the Institut national de la consommation (INC) for the period 2006-2009.

30 August

Approval by the French Ministry of Economy, Industry and Finance of the merger between the two leading satellite television providers, *CanalSat* and *TPS*, subject to certain conditions (59 commitments).

5 October

Act adopted in application of Article 71 II of France's framework law on agricultural policy of 5 January 2006 (the “hygiene package”), aimed at bringing the provisions of France's Rural Code and Consumers Code into compliance with Community law concerning the health safety of food and animal feed. This order is accompanied by expanded investigative powers for DGCCRF agents.

8 November

Presentation to the French Council of Ministers of the draft legislation in support of consumers.

13 November

Publication of the new general administrative orders on the roles and organisation of the services of DGCCRF, in the Bulletin Officiel de la Concurrence, de la Consommation et de la Répression des Fraudes (BOCCRF, the official bulletin of Competition Policy, Consumer Affairs and Fraud Control).

21 November

International seminar at the Lille convention centre (Espace International de Lille) organised by DGCCRF and its Belgian counterparts on the theme, *“Cross-border cooperation for enhanced consumer protection.”*

23 November

Organisation by DGCCRF of a seminar on competition policy, bringing together some thirty senior civil servants from 17 ministries and public agencies.

5 December

Scientific symposium on *“Food flavourings”* at the University of Provence, under the aegis of the Marseilles laboratory.



12 December

The Paris Court of Appeals upheld the 30 November 2005 decision by the Conseil de la concurrence (Competition Council) sentencing the three mobile telephone operators – Orange France, SFR and Bouygues Télécom – to a record fine totalling €534 million.

26 December

Signing of a memorandum of cooperation between DGCCRF and L'Agence française de sécurité sanitaire des produits de santé (AFSSAPS, the French Health Products Safety Agency).

29 December

Signing of a memorandum of cooperation between DGCCRF, the General Directorate for Health (DGS) and the General Directorate for Food (DGAL) concerning food safety control.

NATIONAL FRAMEWORK DIRECTIVE 2006 (DNO)

For the second year, DGCCRF issued a national framework directive (Directive Nationale d'Orientation, DNO), aimed at structuring and giving momentum to the scheduling of investigations to be conducted by DGCCRF's decentralised units and its laboratories. These aims would be achieved by selecting targets defined collectively based on an analysis of the potential risks; on knowledge of companies, markets and market trends; and on precedents reported during previous investigations.

Eight national orientations, supplemented by regional orientations, were defined for 2006:

- 1/ Commercial practices and relations between companies
- 2/ Competition in networked sectors
- 3/ The real estate and housing sector
- 4/ The banking and insurance sector
- 5/ The transport sector and the related infrastructure
- 6/ New and/or risky selling methods
- 7/ The education and training sector
- 8/ Development of the analytical capabilities of DGCCRF laboratories.

THE MODERNISATION DRIVE

There were three highlights in 2006.

THE MULTI-YEAR PERFORMANCE CONTRACT, "DGCCRF 2008"

The modernisation drive at DGCCRF culminated in the signing of a multi-year performance contract (CPP) on 20 June 2006, covering the period 2006-2008.

In late 2004, DGCCRF had organised a broad internal and external debate to define "DGCCRF 2008," its modernisation project for the medium term, which constitutes the strategic backbone of the performance contract.

The CPP is part of the MINEFI modernisation strategy that involves putting management contracts in place in the various Directorates for the period 2006-2008. These contracts are intended to define not only the main objectives and indicators for measuring performance, but also the resources allocated for the attainment of those objectives.

In terms of the resources, staff numbers will be reduced by 45 agents over a three-year period (out of a total 3,800 jobs), reflecting both DGCCRF's necessary contribution to the broad effort under way throughout the Ministry, and the highly specific nature of the professions exercised in this Directorate, which focuses on investigative work. In budgetary terms, the operating resources will be held stable in current euro terms.

The results achieved – attainment of the main objectives – are indicative of the strong performance of the services in 2006.

Four main strategic orientations are translated into 15 operational commitments.

Adapting operations to changes in the market environment

1. Better distribution of activities among the three main missions
2. Heightened presence in sensitive sectors
3. Rebalancing the mix of operations in the area of safety
4. Strengthening of services to consumers in partnership with the consumer movement

Improving effectiveness

5. Better enforcement of sanctions, etc.
6. Improved measurement of performance
7. Better communication

Working better together

8. Closer coordination between central administration and decentralised services
9. Successful regionalisation



10. Maintenance and strengthening of ties between units and laboratories

11. Sharing of information on best practices

Improving the management of human resources

12. Ensure that recruitment more closely reflects current needs

13. Improvement of training

14. More dynamic career development

15. Better operational tools

Performance is measured against 17 indicators.

ACTIVITIES RELATED TO COMPETITION AT THE EUROPEAN AND INTERNATIONAL LEVELS

1) AT THE EUROPEAN LEVEL

IN EUROPEAN BODIES

DGCCRF takes part in the working parties of the European Competition Network and in the annual meetings between the heads of the network's member authorities. Working parties deal with general issues related to the parallel implementation of Community and national competition law, or are devoted to monitoring a given sector of the economy. In this context, in 2006, DGCCRF participated in a working party dedicated to discussion of the harmonisation of the leniency programmes pursued by the Union's competition authorities. The work of this group, co-chaired by the French and British competition authorities, culminated in the adoption of a model programme incorporating the elements key to a uniform and simplified leniency system, notably by facilitating the handling of parallel applications for leniency within the European Union.

In 2006, DGCCRF had an active presence in the working party on Article 82 of the Treaty, and welcomed the shift described in the Commission's discussion paper towards an analysis of cases of abuse of dominant position based less on pre-defined categories, and more on an economic analysis of the impacts of practices deemed detrimental to competition in the marketplace and ultimately, therefore, to consumers. The final document setting out the Commission's guidelines for the application of Article 82 should be issued in 2007.

DGCCRF was an active participant in the debate initiated by the Commission on civil suits for reparation of injury caused by anti-competitive practices. In 2006, the Directorate contributed to the drafting of the French response to the

Commission's Green Paper. The European Commission has announced the adoption of a White Paper in 2007.

EUROPEAN COMPETITION AUTHORITIES IN NICE, 18 AND 19 MAY 2006

The ECA (*European Competition Authorities*) is a discussion forum bringing together the competition authorities of the European Economic Area. Its aim is to foster dialogue among authorities to promote effective enforcement of competition rules in Europe. The annual meeting is an opportunity for the heads of the various national authorities to establish direct ties.

After Luxembourg in 2004 and London in 2005, the meeting was held in Nice on 18 and 19 May 2006, at the invitation of DGCCRF and the Conseil de la concurrence (Competition Council). It focused in particular on the policies for sanctioning anti-competitive practices. Once again, this meeting emphatically confirmed the value of pursuing and developing the productive exchanges conducted over the past six years.

FORENSIC IT SEMINAR ON 6 OCTOBER 2006

Last year on 6 October, DGCCRF hosted the Forensic IT working party for the first time ("legality of electronic evidence"). This working party enables investigators from several national competition authorities in Europe to share their experiences in both the legal and technical aspects of forensic IT.

The meeting was attended by investigators from Hungary, Germany, Finland, Italy, the Netherlands, the European Commission and the competition authority of the European Free Trade Association (EFTA).

In collaboration with the Finnish authority, the Direction nationale d'enquête (DNE, national investigative directorate) of the DGCCRF, leader of the network dedicated to investigations of computer systems, is in charge of updating a document reviewing the legal and technical aspects of IT investigations. This work will also lead to the establishment of an inventory, annotated with national case law. DNE, in collaboration with the Italian and Dutch authorities, will draw up a second document on the establishment of the chain of evidence and the storage of data.

2) AT THE INTERNATIONAL LEVEL

IN INTERNATIONAL BODIES

DGCCRF has been a member of the steering committee of the International Competition Network – (ICN) since its inception. It took part in the annual conference in Cape Town in April 2006, which saw the adoption of a number of principles in the telecommunications sector. The first-time participation in the ICN of a large number of French-speaking



countries was made possible by the financial and logistical support that DGCCRF provided to these countries. The Directorate also gave a presentation at ICN's international workshop on cartels, held in The Hague in November 2006. In connection with its participation in the work of the competition committee of the Organisation for Economic Cooperation and Development (OECD), DGCCRF took the floor to underscore the main emerging strategies in the use of evidence taken into account when analysing merger operations (improvement of the pre-notification system, greater third-party involvement and increased use of economic analysis).

DGCCRF is also a partner in the work of the United Nations Conference on Trade and Development (UNCTAD). Within that framework, a bilateral Franco-Tunisian programme in the area of competition was put in place in June 2006, directed by DGCCRF and funded by the European Union. To further advance the initiatives undertaken with French-speaking countries, DGCCRF took part in an international conference on 20 and 21 November 2006, held at the Paris Supreme Court of Appeals (Cour de Cassation) for French-speaking judicial and competition authorities.

INTERNATIONAL COOPERATION

DGCCRF is pursuing its international cooperation programmes by strengthening its ties with the countries of Central Europe, Eastern Europe and the Mediterranean Basin, and establishing partnerships with emerging countries like Vietnam, as well as with major international trading partners like China. In developing this policy, DGCCRF draws on its own resources and on those made available by ADE-TEF (a public interest group in charge of providing assistance for the development of trade in economic and financial technologies, as well as the Ministry's operator in charge of this activity).

In regard to the Commonwealth of Independent States (CIS), bilateral agreements were signed with the anti-trust committees in Russia (2005-2007) and Ukraine (2006-2008). In 2006, discussions centred on market regulation and anti-competitive practices, concentrations, the opening to competition of industries involving networks (notably the gas and electricity markets), and the fight against counterfeit goods.

In regard to Asia, the revival of cooperation with China, notably with the State Administration for Industry and Commerce (SAIC), was clearly essential. Trade with Vietnam is also significant, and the finalisation of an official agreement is in progress with the aim of structuring competition law and improving consumer protection, after a visit by the Director General, Competition Administration Department from the Vietnamese Ministry of Commerce.

DGCCRF, with the assistance of the Conseil de la concurrence (Competition Council), established a twinning agreement with Tunisia, which took effect in May 2006 and will last until the end of 2007. Its objective is to strengthen the institutional capacities of the country's public agencies in charge of implementing trade policy.

In December, DGCCRF also made a successful application for a twinning agreement with Ukraine for the purpose of upgrading the country's competition authorities (establishment of a consortium involving France's Competition Council and the Hungarian competition authority).

EUROPEAN AND INTERNATIONAL CONSUMER PROTECTION INITIATIVES

1) IN EUROPE

In 2006, Community activities in the area of competition law were devoted mainly to efforts to reach a political agreement of the EU Council of Ministers on **the proposed Directive on Consumer Credit**, which has been under negotiation since October 2002. Indeed, following a suspension of the discussions for over a year after the text was adopted on its first reading in the Spring of 2004 by the European Parliament, where it was substantially amended, the European Commission presented a modified proposal on October 13, 2005. This proposed directive is considered a test for the Commission on the harmonisation of retail financial services in Europe.

During the first half of 2006, negotiations of the Council, under Austria's presidency, led to a number of changes in the text. The most significant of these was to delete all references to the principle of mutual recognition, in accordance with the desire of the majority of Member States, including France.

Succeeding Austria to the presidency, Finland set the goal of quickly reaching an agreement in the Council and, with French support, proved especially active in agreeing to increase the number of waivers and exemptions from application of the Community system, to allow any Member States that so desire to maintain a high degree of consumer protection while concentrating the harmonisation effort on the key aspects of the text pertaining to the development of cross-border lending. Despite its efforts, the Finnish Presidency ultimately had to abandon its attempts to reach a political agreement on the text during the Competitiveness Council meeting of 4 December 2006.



Preparations for the publication of the Green Paper on the review of the Consumer acquis (existing Community legislation relating to consumer protection) also took place in 2006. Under the terms of the Green Paper, a review procedure is to be undertaken concerning seven directives (price indication, injunctions, distance selling, sale of consumer goods and guarantees, doorstep selling, package travel, unfair contract terms), not including the directive on time-shares, the review of which is already included on the 2007 legislative agenda.

A CONSUMER FOCUS FOR EUROPE DAY AT BERCY

For Europe Day on 9 May 2006, Thierry Breton, Minister of Economy, Finance and Industry, selected the central theme of "Europe serving consumers" ("L'Europe au service des consommateurs"). A working meeting at Bercy was devoted to this theme, attended by consumer representatives, heads of national and European agencies, the European Consumer Centre (France and Germany) – Kehl, as well as mediators, members of the European network for the settlement of cross-border disputes. After recalling the milestones in European consumer protection law and the construction of the enlarged European market, which currently numbers 450 million consumers, the Minister emphasised the tangible progress achieved through the construction of Europe: enhanced consumer safety, better consumer information, and the implementation of systems for the enforcement of a common set of rights.

INTERNATIONAL SEMINAR IN LILLE: "CROSS-BORDER COOPERATION FOR ENHANCED CONSUMER PROTECTION"

At the joint initiative of the Belgian Direction Générale du Contrôle et de la Médiation (DGCM – General Directorate of Control and Mediation) and DGCCRF, the representatives of five consumer protection authorities and the European Commission met to prepare the entry into force of the new regulations on administrative cooperation among Member States.

The one-day seminar held in Lille on 21 November 2006 provided an opportunity to share a great deal of information concerning unfair cross-border commercial practices.

2) INTERNATIONAL COOPERATION

Bilateral cooperation is extensive for the Africa zone. The Maghreb is a major partner and assistance programmes are in place on behalf of the Moroccan and Tunisian consumer protection authorities in particular. A novel approach was introduced with Gabon, allowing for an assessment of needs, the signing of an agreement for the period 2006-2007, and the

implementation of a targeted partnership for the training of scientific personnel and assistance in starting up a department of the national laboratory – all in a very short time (less than 6 months). Moreover, a Gabonese manager completed the basic training as a laboratory engineer. Finally, to promote a transfer of know-how, opportunities to take basic training are available to African nationals (5 slots in 2006), in addition to in-service training opportunities.

In many cases, such bilateral cooperation foreshadows more ambitious initiatives undertaken as part of programmes backed by Community funding.

Multilateral action is under way on behalf of the countries of Central Europe, Eastern Europe and the Mediterranean Basin, based on specific tools such as the MEDA programme offering financial and technical support measures (as the financial instrument of the Euro-Mediterranean partnership), and TAIEX (Technical Assistance Information Exchange), which is helping these countries in matters concerning alignment with, and the application and enforcement of, EU legislation. This action reflects the desire to pool resources among French directorates or ministries in order to enhance national efforts in these areas and facilitate human resources management.

These efforts can also be coordinated with other partners in the administration. For example, the French ministries of Economy and Agriculture coordinated their activities in Romania and Bulgaria to define inspection methods. In Romania, DGCCRF provided support and a resident advisor within the context of a twinning agreement designed to strengthen the administrative structures in charge of inspection for the fruits and vegetables sector. In Bulgaria, the aim of the cooperation exercise is to ensure the traceability of meat and meat-containing products. Both twinning agreements came into force in 2006.

DGCCRF will also take part in three twinning agreements achieved in 2006, through various partnerships. The agreements pertain to Tunisia, Jordan and Morocco.