



2007 ACTIVITY REPORT OF THE GENERAL DIRECTORATE FOR COMPETITION POLICY, CONSUMER AFFAIRS AND FRAUD CONTROL (DGCCRF)

EXCERPTS

INTRODUCTION

With its first multi-year performance contract covering the period 2006-2008, the General Directorate for Competition Policy, Consumer Affairs and Fraud Control (DGCCRF) established the means needed to carry out its role with greater effectiveness and efficiency for the benefit of consumers, businesses and regional and local authorities.

The events of 2007 clearly illustrate the positive impact of this contract, which is founded on clear priorities and quantified objectives. Progress is visible to all parties concerned, from the staff who are the primary architects of our good results to our various constituencies, who can measure the efforts deployed. In any case, performance is on par with expectations, attesting to DGCCRF's ongoing adaptation to its changing environment and to its ability to mobilise quickly whenever needed.

In the area of **consumer protection**, DGCCRF has reinforced its presence in sensitive and emerging sectors where the most problems occur.

In line with this effort, DGCCRF in 2007 rolled out a measurement tool – the complaint barometer – which allows the earliest possible identification of high-conflict sectors based on an analysis of data generated by dealings with consumers. This tool led to more frequent inspections and the preparation of new consumer protection legislation.

In the area of **consumer safety**, the growing share that manufactured goods represent in household budgets, along with their frequent renewal and increasing sophistication, have prompted us to step up our initiatives concerning manufactured goods for mass markets. In line with this priority, a “toy plan” was implemented and 9,000 toys were inspected involving 2,500 industry players in 2007. Naturally, activities in the area of food safety continued in 2007, with more stringent supervision of nutritional and health claims, the monitoring of pesticide residues in fruits and vegetables, and management of a number of food safety alerts (e.g., grape juice and buckwheat flour).

Our work in the area of **competition** – which ultimately benefits consumers – accounts for nearly 22% of our operations.

Our initiatives aim to institute a veritable “competition education,” an effort that includes a series of “Competition Meetings” launched in 2007 in various regions of France. Their purpose is to better inform company leaders, especially in small- and medium-sized enterprises, about competition law and dealings between suppliers and retailers.

DGCCRF's presence in the field, its attention to the various players, its knowledge of the economic fabric and its responsiveness are key factors that contribute where necessary to the evolution of regulations at both the national and European levels.

The Chatel Law of 3 January 2008 on the development of competition to serve the interests of consumers addressed the problems encountered by consumers in the electronic communications, banking, insurance and distance selling sectors, while also introducing changes to the supplier-distributor relationship.

Lastly, to exercise its role effectively, DGCCRF is improving its organisation and working methods. The regionalisation program revamped internal services in 2006, making the regional directorate the operational “command centre” of operations. This organisation matches the needs of the marketplace and the nature of our tasks. It also enables us to optimise the management of our human and financial resources, aiming to provide the best service at the best cost.

It is also important to make sure that follow-up actions decided on are effective, that is, proportionate and prompt. The time required to handle a case is getting shorter, both for criminal litigation and for investigations into competitive practices. The prevalence of out-of-court settlements, a flexible and rapid means of applying sanctions, has increased spectacularly. They are now used in 20% of violation cases. A streamlined system has also been implemented to handle cases of cartel of regional or economically-limited scope.

Improvements are also in progress concerning the reception of the public and information provided to consumers. Average response times are getting shorter for information requests and complaints; the website was completely revamped in August 2007; and the collection of brochures for the general public dealing with frequently-asked questions about consumer issues is being expanded.

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Everyone knows that the activity of a professional organisation with a role as diversified as ours cannot be summed up by a mere set of performance indicators. Nevertheless, all of us take pride in meeting our objectives, and in this respect, 2007 was an exemplary year (15 of our 17 contract objectives were met). Opinion surveys have shown that our fellow citizens as well as the business community are familiar with our administration and place their trust in us. The aim of our ongoing mobilisation is to be ever-more worthy of that trust.

Bruno PARENT
General Director

THE ACTIVITIES OF DGCCRF

The activities of DGCCRF centre on three aspects of the programme on regulating and securing trade in goods and services.

- The purpose of **regulating market competition** is to define and enforce the rules of competition to promote **the development of a fair and open marketplace** by combating unfair business practices.

DGCCRF acts by detecting cartels and abuses of dominant position (it can propose that the Ministry refer a matter to the *Conseil de la Concurrence* (Competition Council) based on the findings of an investigative report); monitoring the status of public tenders; monitoring merger deals to ensure the perpetuation of a competitive market organisation; combating restrictive competitive practices among companies or professionals; and combating counterfeiting.

- The aim of ensuring **the protection of consumers** is to set and enforce rules on required **information to consumers** and **fair business practices** directed at consumers.

Accordingly, DGCCRF makes sure that consumers are given clear and honest information concerning the goods and services offered for sale (labelling rules, ingredients and naming of merchandise, prevention of forgeries and deception). It sees to the proper use of symbols that enhance the value of products (quality logos, labels, certifications of origin, organic agriculture labelling, etc.). It detects and sanctions practices deemed detrimental to consumers (e.g., deceptive advertising, artificial discounts, abuse of weakness) and checks for compliance with price posting rules.

- The protection of **consumer safety** refers to their **physical safety** and their **health**. DGCCRF's scope encompasses all types of food and manufactured goods at every stage (production, import, distribution), as well as services.

It checks products at the domestic level with respect to the dangerousness indices conveyed by other EU Member States.

Its work is more intensive in risky areas such as pesticide residues in foods of plant origin, athletic and recreational activities, and accidents in day-to-day life. Special attention is also devoted to manufactured goods for mass markets and products that are highly diversified and subject to quick obsolescence and replacement, which raises specific challenges in terms of safety inspection.

All three of these areas are geared to the same overarching goal: serving the interests of consumers.

Our activities revolve around one core competence: field investigations.

2007 NATIONAL FRAMEWORK DIRECTIVE (DNO)

The National Framework Directive (DNO) is the document that determines our annual schedule of activities, giving clear guidance and setting targeted objectives.

Eight national orientations were defined for 2007:

1. Commercial practices and relations between companies
2. The automotive sector
3. The operation of energy and commodities markets
4. New claims and value-enhancing information in the area of food labelling
5. The safety of manufactured goods for mass markets
6. The tourism and leisure sector
7. Consumer protection with regard to services performed in the home by professionals
8. New consumer scams

A FEW HIGHLIGHTS OF 2007 REGULATION OF MARKET COMPETITION

A harshly sentenced cartel in the toy business

After it was asked by the Ministry for the Economy to prosecute a case pursuant to an investigation by DGCCRF, the Competition Council ruled on 20 December 2007 to take sanctions against five toy suppliers and three retailers who had fixed the retail prices of Christmas toys, causing prejudice to consumers. .

These vertical price-fixing agreements were accompanied by “price police” actions directed at “non-compliant” retailers in order to push toy prices higher. The practices were implemented by companies or groups with a portfolio of very well-known brands.

The fines totalled €37 million. The companies have appealed the ruling.

A merger creating new opportunities for growth in the trade fair and exhibition sector in Ile-de-France (Greater Paris)

On 13 November 2007, the Ministry for the Economy approved the merger between the Paris Chamber of Commerce and Industry (CCIP) and Unibail for activities relating to the management of convention and exhibition facilities and the organisation of trade fairs and exhibitions, subject to conditions and approval by the Competition Council.

In a context of insufficient available space for conventions and exhibitions, especially at peak times of the year, expanding the size of facilities designed to host major events will enhance the competitiveness and attractiveness of Paris in this sector. The commitments undertaken relate to obligations to invest and expand exhibition space, as well as concerning the fee structure of the new complex, and fair and equal access to sites.

Authorisation for the purchase of Les Echos by the LVMH company

On 24 December 2007, the Ministry for the Economy approved the purchase of Les Echos by the LVMH company subject to certain conditions (notably the sale of the financial daily *La Tribune* and the website *latribune.fr*). in order to ensure that effective competition will prevail in the daily financial and business press market following the deal.

Four Competition Workshops

Organised by DGCCRF, these workshops are half-day “think-tank” sessions that bring together economists, lawyers, academics and business leaders to discuss various topics of common interest. In 2007, workshops were devoted to:

Merger remedies: basis, status and outlook (7 March 2007)

Competition and public authorities (6 June 2007)

Competition and the organisation of the health-care system (10 October 2007)

Business compliance and internal organisation (12 December 2007)

International cooperation: twinning agreement with Tunisia

As the first Mediterranean country to undertake an economic liberalisation process, Tunisia also became the first country in the region to establish a new partnership agreement with the European Union in 1995. Within the framework of this agreement, DGCCRF and the Competition Council have been involved since Summer 2006 in an ambitious twinning programme with the aims of supporting economic transition, improving public governance and creating the conditions for promoting competition in the Tunisian economy.

The Chatel Law of 3 January 2008 for the development of competition to serve the interests of consumers

The key provisions amending the commercial code are as follows:

- Modernisation of commercial dealings between suppliers and retailers: under a new definition of the lowest authorised resale price (selling below cost), retailers can now include all financial advantages into their purchase price. This measure is intended to stimulate competition in the retail sector in order to drive down prices, especially for products of major brands; the results of the commercial negotiation will now be formalised in a single document (i.e., general conditions of sale, services that can be unbundled from the sales transaction);
- Authorisation of Sunday opening hours for retail furniture stores.

CONSUMER PROTECTION

Three opinions issued by the *Conseil National de la Concurrence* (National Consumer Affairs Council) at its meeting of 27 March 2007

The opinions concern the improvement in information provided to consumers regarding real estate assessments, alternative means of settling disputes (mediation) and audiovisual advertising in the electronic communications sector.

In addition, work has begun on the European Commission Green Paper concerning the review of all Community consumer protection legislation with the aim of proposing a harmonised and clarified system of Community directives by the end of 2008.

New European “organic agriculture” regulation adopted on 28 June 2007

A new “Organic Agriculture” regulation was adopted on 28 June (and will enter into force on 1 January 2009) in order to anchor organic agriculture firmly in the Common Agricultural Policy, encourage its development and promote quality, environmentally-friendly products.

The new legislation emphasises transparency to boost consumer confidence. Its scope has been extended to include new product categories (e.g., seaweed, pet foods) and all operators in the sector.

The opening of gas and electricity markets for retail customers effective 1 July 2007: consumer aspects

Groundwork began as early as 2005 within the framework of a working party of the National Consumer Affairs Council. The law of 7 December 2006 guaranteeing the full opening of energy markets includes provisions aimed at strengthening consumer protection. These include mandatory details to be shown on electricity and natural gas invoices, and the establishment of a national energy ombudsman (Mr Denis Merville, appointed on 5 November 2005) tasked with reviewing disputes between suppliers and customers.

The law of 10 January 2008 relating to regulated tariffs for electricity and natural gas allows consumers who had selected a particular supplier offering market prices to revert to regulated tariffs, subject to conditions.

Reinforcement of initiatives in the electronic communications sector

In the areas of fixed and mobile telephony and Internet access, consumer complaints are numerous and concern mainly the quality of service provided, technical problems, invoicing for services and the conditions for terminating a contract.

In early 2007, the heads of several companies in this sector were asked to implement measures quickly to improve the situation. In view of the large number of complaints (35,000 in all in 2007), more stringent inspections were introduced (ongoing supervision).

2007 Rugby World Cup

In connection with this event, held in France from 7 September through 20 October 2007, DGCCRF and French Customs took special care to prevent unpleasant experiences for tourists. Measures included “Useful tips for a pleasant stay in France,” a brochure published in French, English and Spanish and enhanced inspections in the field notably to avoid abusive commercial practices and counterfeit promotional merchandise. In all, DGCCRF carried out 6,000 inspections which gave rise to 396 notifications of regulatory information, 582 reminders of regulatory provisions, 239 reports of violation and 106 administrative measures.

Four consumer affairs workshops

Sponsored by DGCCRF, these workshops are attended by people from various backgrounds: economists, legal experts, sociologists, journalists, company heads, consumer associations, to conduct a joint analysis on any topic related to consumer affairs. In 2007, workshops were devoted to:

Purchasing power (5 April 2007)

Responsible consumption (15 June 2007)

Young consumers (4 October 2007)

How effective are consumer protection associations? (4 December 2007)

The Chatel law of 3 January 2008 to develop competition in the interest of consumers

This law introduces the following key amendments to the Consumers Code:

- In the electronic communications sector: no charge for hotline waiting time; more flexible conditions for switching operators (specifically, shorter period of notice for the termination of contracts); these measures entered into force on 1 June 2008;
- In the banking sector: broader scope for mediation in banking affairs (extended to credit and savings disputes); annual statement of bank charges from 2008 (itemizing all charges invoiced including service charges); better information concerning possible trends, provided to consumers taking out a loan with a variable interest rate;
- In the insurance sector: retraction period set at 14 days for all new contracts sold;
- In the distance-selling sector, new provisions offering enhanced protection for consumers (entry into force on 1 June 2008), particularly relating to delivery dates and information about retraction rights.

CONSUMER SAFETY

Inspections of 9,000 toys from 2,500 industry players

In what is a particularly sensitive sector for consumers, DGCCRF intensified its inspections in 2007 (18% more than in 2006) under the "Toy Plan." Imported toys (many of them manufactured in China) were the focus of especially close attention, usually in cooperation with the Customs and Excise authorities.

Moreover, in addition to this structured and coordinated inspection plan, other initiatives were put in place to respond to emergency situations. Impromptu inspections were carried out to check the actual implementation of measures by companies in the event of a demonstrated risk or danger, such as a design defect with the potential to cause injuries, risks of electrical short circuit, or the presence of toxic compounds in paint and beads (toys).

Improvement of ride safety after serious accidents

The increasing technical sophistication of rides and the accidents of the recent past have underscored the need to remedy this situation. The law of 5 February 2008 was passed to reinforce the safety of rides after the fatal accident that took place on 4 August 2007 at a fairgrounds (Fête des Loges). Accordingly, the services of the Ministry for the Economy (including DGCCRF) and the Ministry of Interior, Overseas France and Territorial Communities are working with representatives of the fair community and the national union of recreational, amusement and cultural facilities, to establish implementing provisions that clarify and increase the stringency of technical specifications for equipment as well as the operators' inspection and maintenance obligations.

More stringent framework for the use of chemical substances

Adopted on 18 December 2006 and effective since 1 June 2007, Europe's REACH (Registration, Evaluation, Authorisation and restriction of CHemicals) legislation aims to create a more stringent framework for the use of chemicals within the European Union in order to improve the protection of health and the environment while stimulating competitiveness and innovation.

The overarching aim of this legislation is to ensure that the substances of greatest concern will eventually be replaced with less dangerous substances or technologies whenever economically- and technically-viable alternatives exist.

Henceforth, it is incumbent upon manufacturers, importers and downstream users to ensure that they manufacture, place on the market or use substances that comply with the above criteria. This legislation is based on the precautionary principle.

Supervision of nutritional claims

The European regulation of 1 July 2006 on nutritional and health claims appearing on foodstuffs entered into force in 2007. This complex and innovative text, which has strong implications for the food industry, was the focus of debate at the national and European levels between industry players, Member States and the European Commission. The debates culminated in the drafting of an interpretation document at the European level validated in December 2007.

Whereas industry players formerly were free to communicate in this area (with DGCCRF charged with checking the veracity of the claims), the new regulation introduced the principle of registers of authorised claims, which may be supplemented with additional claims subject to prior authorisation. DGCCRF was tasked with centralising such requests for health claims and their scientific justifications in order to forward them to the European Commission by

the end of January 2008 (requests from 118 companies or unions containing nearly 3,000 claims). The Commission will draw up a register of authorised health claims by January 2010, after review by the European Food Safety Authority (EFSA).

Alerts in Europe in 2007

DGCCRF has an alert unit for the domestic market, which also serves as the French link in the European alert networks.

2,338 European alerts in 2007 (1,826 in 2006)

975 food-related alerts
of which 45 originating in France
1,363 for non-food products
of which 93 originating in France.

Major trends:

Substantial increase in the number of alerts in 2007, stemming primarily from the higher number of alerts concerning non-food products, Of the non-food products targeted by alerts, the most frequently implicated are: games and toys (31%), electrical appliances and accessories (12%) and automotive accessories and spare parts (9%).

THE PERFORMANCE CONTRACT

At the end of 2004, DGCCRF began to hold discussions with a wide range of internal and external stakeholders to define “DGCCRF 2008,” its modernisation project for the medium term,

This effort culminated in the 20 June 2006 signing of a multi-year performance contract (CPP) spanning the years 2006 through 2008 and setting out the main objectives and indicators for measuring performance and the resources allocated for the attainment of those objectives.

Four main strategic orientations were defined, translating into fifteen operational commitments.

Strategic orientations

Adapting operations to changes in the market

1. Better distribution of activities among the three main missions
2. Heightened presence in sensitive and emerging 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
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 is more closely matched to current needs
13. Improvement of training
14. More dynamic career development
15. Better operational tools

ORGANISATION

The Central Administration in Paris

The Central Administration lays down general guidance for inspections and other initiatives and is responsible for managing, coordinating and evaluating decentralised services and those with responsibility at the national level. It is organised into two departments that cover seven sub-directorates and 24 bureaux. In 2007, the Central Administration had a workforce of 397 staff.

Services with responsibility at the national level (SCN)

DGCCRF has four SCN that carry out operational or administrative assignments of national scope.

- **The Direction Nationale des Enquêtes de Concurrence, de Consommation et de Répression des Fraudes** (*National Directorate for Investigations of Competitive Practices, Consumer Affairs and Fraud*) (**DNECCRF**)

This Directorate is in charge of large-scale investigations that involve inspections all over the country.

- **IT department**

With three locations (Paris, Lyon and Montpellier), this department handles the operation and upgrading of the Directorate's information systems. It also manages a network of user assistants based in regional capitals and with the Central Administration in order to maintain and upgrade hardware and software and provide training locally in the use of the new software.

- **Ecole Nationale de la Concurrence, de la Consommation et de la Répression des Fraudes** (*National School of Competition Policy, Consumer Affairs and Fraud Control*) (**ENCCRF**).

The school is based in Montpellier with another location in Montreuil. It provides basic training for senior and junior trainee inspectors and dispenses in-service training as well.

- **A special SCN: the joint laboratory service (SCL)**

Formed on 1 January 2007 by the merger of the DGCCRF and DGDDI laboratories, the joint laboratory service reports to both of these administrations.

The SCL has a management unit based in Paris and 11 laboratories around France (Bordeaux, Le Havre-Rouen, Paris-Massy, Lille, Lyon-Oullins, Marseille, Montpellier, Rennes, Strasbourg- Illkirch, Saint-Denis-de-La-Réunion, Antilles).

Decentralised Services: Regional organisation

Decree No. 2006-81 of 26 January 2006 defined a new organisation for DGCCRF. Henceforth, these decentralised services are organised into regional directorates with a unit in each *département* of France.

As a rule, the DGCCRF now carries out its operations at regional level. This reform thus enhances the efficiency of the services' initiatives and meets the needs created by the various changes that have occurred in the marketplace. It also optimises the management of human and financial resources.

Each region has its own budget. Within the framework of the French constitutional bylaw on budget acts (LOLF), each region constitutes an operational programme unit (UOP). Initiatives are coordinated within the framework of 7 interregional operational programme budgets (BOP).