

TOWARDS AN EFFICIENT CONTROL OF RESTRICTIVE COMPETITION PRACTICES

The Court of Audit notes that a significant number of complaints lodged with the competition bodies have not yet been processed and that the time taken for dealing with these complaints is too long and not very compatible with the evolutions taking place in many economic sectors.

Since 1993, the protection of economic competition has been entrusted to an administrative jurisdiction (the Council) and to an investigative body (the Competition Service of the Federal Government Department Economy, Middle Classes, Small and Average Businesses and Energy). The investigation of the complaints was later reinforced by the creation of a Corps of rapporteurs.

These bodies are called in to investigate concentrations (acquisitions or mergers of companies) as well as restrictive competition practices (agreeing concerted prices, for instance) in order to guarantee effective economic competition, for the benefit of companies and consumers...

In spite of various measures passed at the end of the nineties and of the recruitment of large numbers of staff in 2000 and 2004, the implementation of this legislation still does not meet the expectations in matters of restrictive competition practices. A new law, passed recently by Parliament, aims at reinforcing the effectiveness of the competition bodies by increasing their means and simplifying certain procedures.

At the end of the year 2005, the Court of Audit examined how the capacity of competition bodies to deal with restrictive competition practices evolved.

Concerning complaints lodged since 1993, the decision was made in a mere 58 files (only one of these decisions included a penalty) out of the 187 complaint files. Half the files in which a decision was made required more than 7 years to be dealt with, while the majority of the files still being investigated are over 5 years old.

According to the Court of Audit, the means available for several years to the competition bodies should have enabled them to deal faster and more efficiently with more files concerning restrictive competition practices. Better results can be reached without a new increase of means, by adopting a management policy that is more active and more mindful of the time taken for dealing with files.

A competition policy that would provide the market with clear indications will be a reality only if possible restrictive competition practices are investigated on the initiative of the Corps of rapporteurs and are settled by the Council within reasonable periods of time, compatible with business life.

In his answer, the minister of Economy stresses that, besides the causes noted by the Court, the fact remains that there was, furthermore, a lack of manpower within the Council, the Service and the Corps as well as an imbalanced allocation of the restricted means to the investigation of concentrations, and he announces that he will draw the attention of the various bodies to their responsibilities.