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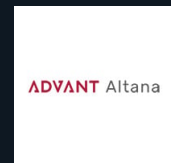
Country Comparative Guides 2026

France

Cartels

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This country-specific Q&A provides an overview of cartels laws and regulations applicable in France.

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France: Cartels

1. What is the relevant legislative framework respect of cartel agreements and/or conduct ?

Similarly to Article 101 of the Treaty on the Functioning of the European Union ("TFEU"), under French law cartel agreements and related practices are prohibited by Article L. 420-1 of the French Commercial Code.

These agreements and practices can also be sanctioned on the basis of Article 101 of TFEU when it can be established that they may be capable of appreciably affecting trade between Member States. Over the past 3 years, since 2023, 15 cartel decisions issued by French Competition Authority ("FCA") were grounded on both Articles L. 420-1 and 101.

Article L. 420-3 of the French Commercial Code expressly provides that any agreement or contractual provision related to a practice prohibited by Article L. 420-1 is null. Accordingly, any court can declare the clause null and void.

Article L. 420-4 offers block and individual exemption mechanisms (of the French Commercial Code and Article 101(3) TFEU) whereby the competition restrictions arising from an agreement are weighed against the efficiencies that it generates. In practice, the cumulative conditions required to benefit from the exemption can be extremely difficult to satisfy. Over the past 3 years, among 21 cartel decisions issued by FTC, 8 comprise the analysis of exemptions and rejected.

Lastly, contrary to the EU law, Article L. 420-6 provides for criminal liability of any individual who has fraudulently played a personal and decisive role in the design, organisation or implementation of anticompetitive practices. Such individuals face up to four years of imprisonment and a fine of €75,000 (of the French Commercial Code). From a practical viewpoint, This provision is however very limitedly applied, in cases where complex criminal offences are prosecuted, including for example also corruption or favouritism mainly in the context of public tenders, resulting mostly in prison sentences fully suspended and fines significantly lower than the maximum penalty incurred.

In addition, the FCA has implemented an informal guidance tool to assist undertakings, professional associations and non-governmental organisations that

wish to develop projects pursuing a sustainable development objective and to ensure the compatibility of their project with competition law.

Interested parties may submit their project to the FCA, which may in turn provide informal guidance on its compatibility with competition rules. Where the *rapporteur général* considers that the project appears to be compatible with competition rules, the informal guidance letter states that, should the project be implemented under the conditions set out, there would be no grounds to open an investigation. Where appropriate, the informal guidance letter may also specify conditions or adjustments subject to which the envisaged project would appear to be compatible with competition rules (Notice on the Authority's informal guidance in the field of sustainable development, dated 27 May 2024).

2. How is a cartel defined?

Article L. 420-1 of the French Commercial Code is closely modelled on Article 101(1) of the TFEU and prohibits any anticompetitive agreements, regardless of their form, including concerted actions, express or tacit understandings, and coalitions, having as their object or effect, either actual or possible, prevention, restriction or distortion of competition in a market.

In particular, such practices are prohibited where they tend to: (i) limit access to the market or the free exercise of competition by other undertakings; (ii) impede the determination of prices by market forces by artificially encouraging their rise or fall; (iii) limit or control production, outlets, investment or technical progress; or (iv) share markets or sources of supply.

Parallel conducts resulting from actual autonomous decisions and behaviours do not amount to illicit anticompetitive practices, unless collusion can be evidenced as having determined these conducts.

Participants to a cartel can be either undertakings or associations of undertakings. In order to be part of a cartel, undertakings shall be autonomous. In other words, arrangement or collusion between companies, part of the same group, *i.e.* ultimately controlled by the same entity, are not deemed as anticompetitive practices, as long as these companies do not determine autonomously their respective behaviours in the market. It is not necessary

that the prosecuted undertakings be active in the market concerned to be sanctioned. Third parties can also be viewed as having taken part in a cartel if they have facilitated its organization or contributed to its implementation (*i.e.* hub and spokes cartel).

In addition, a cartel can be sanctioned either on the basis of one-time and successive practices, not part of the same plan, or, on the contrary, in consideration of a single, complex and continuous infringement, all the practices being viewed as part of the same anticompetitive strategy.

3. To establish an infringement, does there need to have been an effect on the market?

An effect on the market does not need to be established. As under EU law, where a practice constitutes a restriction by object – *i.e.*, where it reveals a sufficient degree of harm to competition by itself – there is no need to examine its effects (see for instance Decision No. 26-D-03 concerning practices in the alpine skiing instruction sector, para. 181). Analysis of the effects is only conducted alternatively, when the object of the practice does not reveal enough harmfulness. Here again, cartels can be sanctioned only on the basis of its potential detrimental effects, even if not actually evidenced.

4. Does the law apply to conduct that occurs outside the jurisdiction?

French competition law applies to any anticompetitive practice that has, or is likely to have, an effect on competition in France, regardless the location of the infringers or where the illicit decision was issued.

5. Which authorities can investigate cartels?

Cartel investigations are mainly conducted by the FCA or by the Directorate General for Competition of the Ministry of the Economy ("DGCCRF").

As the DGCCRF has a broader territorial network, it is better positioned to identify more localised anticompetitive practices. The DGCCRF must then inform the FCA of the investigations it has conducted and of any indications of anticompetitive practices in its possession. The FCA may then decide to assume responsibility for the investigation.

DGCCRF has also autonomous sanction power regarding small anticompetitive practices harming competition in markets with local dimension

implemented by undertakings realizing individual turnover below 50 million Euros and the combined turnover of all the undertakings concerned lower than 200 million Euros. DGCCRF can end the prosecution in imposing injunctions and proposing a transaction to the infringers. The maximum amount of the fine can not exceed 150.000 Euros and 5% of the French turnover. In case of refusal of the transaction or failure to comply with the injunctions, the case is referred to the FCA which can decide to open formal proceedings.

The criminal authorities may also investigate cartels where individuals are fraudulently involved, as described above, it being specified that since 2020, the *Parquet National Financier* has had jurisdiction to investigate such conduct. In addition, the *rapporteur général* is required to report to the criminal authorities any anticompetitive practices connected with other criminal offences (Article 40 of the Criminal Procedure Code); the criminal authorities will in turn investigate those offences, including the anticompetitive practices. The suspension of the statute of limitations in criminal proceedings is also enforceable in the context of the investigation conducted on the same practices before the FCA.

The FCA may then access any seized documents directly related to the anticompetitive practices under investigation (Article L. 463-5 of the French Commercial Code).

6. How do authorities typically learn of the existence of a potential cartel and to what extent do they have discretion over the cases that they open?

The authorities may learn of the existence of a potential cartel through a wide variety of different mechanisms, either formal or informal, among which leniency applications, the whistleblowing system, or simple reports have increased significantly these past years. Over the [3 past years, on 21 cases examined by the FCA, 5 resulted from leniency applications. FCA has issued specific guidelines and practical recommendations are available on its website. The first decision based on a whistle-blower report in April 2026 (decision no. 26-D-04). Whereas in the whistleblowing system the whistle-blower is guaranteed confidentiality of its identity, civil and criminal irresponsibility as well as protection against retaliatory measures, including disciplinary action, in the simple report process, no such procedural guarantee is provided. Additionally, formal or anonymous complaints from competitors, clients, suppliers or other market operators, can also source the FCA with possible cartel

cases. Cooperation with other competition authorities is also an alternate source of information, as well as referrals from Public Prosecutor, Minister of the Economy, local or regional competition, consumer and frauds authorities, professional bodies and chambers, trade unions, consumer organisations, or even mayors in the context of their commercial planning powers. The FCA may also initiate proceedings *ex officio*, on the basis of information publicly available (newspapers, internet, TV) or disclosed within the context of another case, or pursuant to leniency, whistleblowing applications or simple reports.

In 2025, the two cartels sanctioned by the FCA were investigated on the basis of either a complaint from a competitor or a leniency application.

The FCA enjoys broad discretion over the cases it opens and is not obliged in any way to investigate all complaints received. Under Article L. 462-8 of the French Commercial Code, the FCA may in particular declare a referral inadmissible for "lack of interest". It neither requires any justification nor can be appealed.

7. What are the key steps in a cartel investigation?

The first step of any cartel investigation is the opening of a case, either *ex officio* or based on the referral of third parties (see question 2.2.).

The *rappporteur général* then assigns the case to one or more *rapporteurs* responsible for conducting the investigation. The appointed *rapporteurs* may use the investigative powers conferred upon the FCA to carry out their investigation (see question 2.4). Once the investigation is complete, the *rapporteurs*, under the supervision of the *rappporteur general*, have two options, either to close the case if the elements are not sufficient to establish illicit practices, or, on the contrary to issue a statement of objections, which opens a formal adversarial proceedings phase against the infringers. Infringers may respond through written observations on the alleged practices within two months. Under the ordinary proceedings, infringers benefit from two rounds of written adversarial proceedings, including the statement of objections and the report which is the final view of the *rapporteurs* on the merits of the case, to which the infringers may also respond within two months. Alternately, simplified proceedings of Article L. 463-3 of the French Commercial Code are only one step written adversarial proceedings with the statement of objections. The decision to go through simplified or ordinary proceedings is taken by *rappporteur general*, who

shall inform the parties of the decision to go through simplified proceedings before the notification of the statement of objections. It neither requires any justification nor can be appealed.

The case is then heard by the *Collège*, the board of the FCA, which is independent from the investigation teams, composed of 17 members, originated from the public sector, as magistrates from supreme courts, and private sector, as professors, economists, lawyers and representatives from professional or consumer organisations. During the hearing, the *Collège* hears the *rappporteur général*, the *rapporteurs*, the *Government Commissioner* and the undertakings involved. The *Collège* may also hear any person whose testimony it considers likely to contribute to its deliberations (Article L. 463-8 of the French Commercial Code).

The FCA then issues its decision, it being specified that there is no statutory deadline by which the decision must be rendered. Pursuant to this decision, the FCA may conclude that the alleged practices are not evidenced and reject the case, or on the contrary, confirm that the practices are evidenced and impose several related measures (Article L. 464-2 of the French Commercial Code):

- an injunction ordering the undertakings concerned to bring the anticompetitive practices to an end;
- the imposition of corrective measures of a structural or behavioural nature, proportionate to the infringement committed and necessary to effectively bring it to an end;
- the acceptance of commitments proposed by the undertakings under investigation;
- the imposition of a financial penalty. The amount of such penalty is determined by reference to a number of factors, including the gravity and duration of the infringement, the situation of the undertaking concerned, and any repetition of the prohibited practices, pursuant to official guidelines published in its website. The total amount of the financial penalty may not exceed 10% of the global turnover of the group to which the undertaking concerned belongs. Alternately, the FCA may also decide not to apply these guidelines and determine a fixed fine.

The FCA may also reject the case where the market shares of the undertakings involved do not reach the *applicable de minimis* threshold of 10% or 15%, depending on whether the undertakings are competitors on the relevant market (Article L. 464-6-1 of the French

Commercial Code), it being specified that the *de minimis* exemption does not apply to the hardcore restrictions listed under Article L. 464-6-2 of the French Commercial Code:

- Restrictions which, directly or indirectly, in isolation or in combination with other factors over which the parties have control, have as their object the fixing of selling prices, the limitation of production or sales, or the allocation of markets or customers;
- Restrictions on unsolicited sales made by a distributor outside its contractual territory to end users;
- Restrictions on sales by members of a selective distribution network who operate as retailers on the market, irrespective of the possibility of prohibiting a member of the distribution system from operating from an unauthorised place of establishment;
- Restrictions on cross-supplies between distributors within a selective distribution system, including between distributors operating at different levels of trade.

Also, upon request of the interested party, the Minister of the Economy, or on its own initiative, the FCA may order interim measures on an urgent basis pending its decision on the merits of the case (Article L. 464-1 of the French Commercial Code). The sole purpose of such measures is to safeguard the competitive conditions prevailing during the investigation and to prevent the situation from becoming irreversible. An interim measures decision does not amount to the finding of infringement of competition law. It is, however, binding on the undertaking concerned and must be complied with until a decision on the merits is rendered.

The granting of interim measures is subject to the following cumulative conditions: (i) the existence of a serious and immediate harm to the general economy, to the economy of the sector concerned, to the interests of consumers or, where applicable, to the complainant undertaking; (ii) the facts under investigation in the main proceedings must, on the basis of the evidence available at that stage, be reasonably likely to amount to an anticompetitive practice; (iii) a causal link must be established between the alleged practices and the harm identified; and (iv) the measure sought must be proportionate to the nature of the harm and strictly limited to what is necessary to address the urgency of the situation.

8. What are the key investigative powers that are available to the relevant authorities?

The FCA and the DGCCRF enjoy broad investigative powers.

First, the authorities may conduct "simple" investigations without any prior judicial authorisation (Article L. 450-3 of the French Commercial Code), in the course of which they may carry out hearings, order the production of documents and take copies thereof.

Second, the authorities may conduct more extensive investigations with the prior judicial authorisation of the *juge des libertés et de la détention* (Article L. 450-4 of the French Commercial Code).

In this context, the authorities may carry out dawn raids on the undertaking's premises, as well as the private residences of its employees, and may place seals on all commercial premises, documents and information media during the visit. In the course of the dawn raid, officers may access both paper documents and electronic devices (computers, mobile phones), and seize original documents. The authorities may also conduct interviews of the occupier of the premises (or its representative), who must be constantly present during the dawn raid, in order to obtain any information or explanation useful to the investigation.

As the dawn raids are authorised by a judge, an appeal may be lodged within ten days against (i) the legality of the judicial authorisation and/or (ii) the conduct of the dawn raid. There is, however, no judicial recourse available against the investigative measures conducted on the basis of Article L. 450-3 of the French Commercial Code.

Any obstruction of investigative measures by the undertaking concerned is subject to a fine of up to 1% of its global turnover (Article L. 464-2 V of the French Commercial Code). These sanctions are rarely applied. A relevant reference can be made to Decision no. 24-D-08 in which fines of 900.000 Euros were issued against a company which provided inaccurate or incomplete information during the investigation.

Opposing the exercise of the agents' functions is also punishable by two years' imprisonment and a fine of €300,000 (Article L. 450-8 of the French Commercial Code).

The European Commission may also conduct inspections in French's undertakings premises and, in such cases, may request the assistance of the agents of the FCA, who

will act in accordance with European law (Article L. 450-12 of the French Commercial Code). It is also common for the agents of the FCA to seek judicial authorization to carry out the search; the investigation is then conducted within the French legal framework.

9. On what grounds can legal privilege be invoked to withhold the production of certain documents in the context of a request by the relevant authorities?

According to Article 66-5 of Law No. 71-1130 relating to legal practice, consultations sent by a lawyer to a client (or intended for a client) and correspondence exchanged between a client and their lawyer are covered by legal privilege.

In competition matters, the scope of legal privilege that can be invoked to withhold the production of documents and, in particular, to limit seizures during dawn raids, has been narrowed by the courts. The Criminal Chamber of the French Supreme Court has developed a very restrictive interpretation according to which legal privilege only covers correspondence exchanged between a lawyer and a client that relates to the exercise of the rights of defence (Criminal Chamber of the Supreme Court, 30 September 2025, No. 24-85.225).

The Commercial Chamber of the Supreme Court has, however, adopted a different wider approach and considers that any correspondence exchanged between a lawyer and a client, whether in the context of drafting a defence or providing mere advice, is covered by legal privilege, it being specified that this decision was adopted in the context of a tax investigation (Commercial Chamber, Supreme Court, 8 October 2025, No. 24-16.995).

The scope of the documents that may be seized by the FCA during investigations has therefore yet to be definitively settled.

In any case, legal privilege also extends to internal documents whose essential purpose is to reproduce the confidential content initially contained in correspondence sent by a lawyer and covered by legal privilege.

From a practical point of view, after the seizure of documents, the representatives of the company visited have fifteen days to inform the investigation team of the FCA of the documents they consider being covered by confidentiality. Documents seized are placed in temporary closed seals, the investigating team shall not open until a meeting be held for the cross-examination of

confidential nature of each document identified by the company be confirmed. The documents confirmed as covered by legal privilege will be definitely excluded from the scope of the final seizure.

As for the correspondence of in-house counsel, French law adopted in January 2026 provisions ensuring the confidentiality of advice drafted by in-house counsels that meet certain requirements. Confidentiality is then subject to strict formal conditions. The legal opinion must bear a precise designation ("confidential – legal advice – in-house counsel"), the abusive use of which is sanctioned by one year's imprisonment and a fine of €15,000. The law further requires precise identification of the author of the opinion, as well as specific classification within the company's files.

However, the law includes an exception for criminal procedures. Given that competition investigations are based on the Criminal Procedure Code, it is likely that the protection granted to in-house counsel will not apply in such investigations either. Consequently, their protection will still only derive from that granted to client/attorney communications.

10. What are the conditions for a granting of full immunity? What evidence does the applicant need to provide? Is a formal admission required?

Full immunity is accessible to a leniency applicant provided that they are the first undertaking to report the offence and supply the FCA with sufficient elements to evidence illicit practices the FCA had no prior knowledge of (first-rank leniency).

Based on Article R.464-5-1 of the French Commercial Code, first rank leniency may be granted to an applicant that is the first to provide information that either (i) enable the competition authorities to carry out dawn raids or searches in the context of criminal proceedings, provided that they do not already have information that they deem sufficient to carry out such inspections, or that such inspections have already been carried out, or (ii) are sufficient to enable the competition authorities to establish the existence of the practices at hand, provided that the authorities do not already have enough information to do so, and that no other applicant has already fulfilled the conditions to benefit from a first rank leniency. Additional conditions of Article R. 464-5-4 detailed in 3.4 below shall be met.

According to Article R.464-5, the leniency application must be addressed to the *rapporteur général* of the FCA or to the General Director of the DGCCRF by registered

letter with acknowledgment of receipt or via a secure electronic document exchange platform, it being specified that the FCA's website provides for an online form to be filled in that regard. Leniency program is governed by the FCA guidelines dated 15 December 2023 relating to French leniency program.

11. What level of leniency, if any, is available to subsequent applicants and what are the eligibility conditions?

Subsequent applicants may benefit from a "type-2 leniency" (Article R.464-5-2 of the French Commercial Code) and benefit from a partial exemption if : (i) the applicant satisfies the conditions laid down in Article R. 464-5-4 detailed in 3.4 below, (ii) the applicant discloses its involvement in a cartel practice and (iii) the applicant provides information that adds significant value in establishing the existence of the practice in question, compared to the information already in the possession of the authorities.

In such case, the fine reduction may not exceed 50% of the amount of the fine that would have been imposed. According to the guidelines on the leniency procedure published by the FCA, the following ranges of penalty reductions may be granted, depending on the order in which these applications are received:

- first undertaking to provide significant added value: reduction of between 25% and 50%;
- second undertaking to provide significant added value: reduction of between 15% and 40%;
- other undertaking to provide significant added value: maximum reduction of 25%.

12. Are markers available and, if so, in what circumstances?

A leniency applicant may request a marker from the FCA to benefit from additional time to allow the undertaking to gather the supporting documentation for its application.

The additional time granted is in principle of one month, although request for an extension may be submitted to the *rapporteur général*, who may grant it on a case-by-case basis.

13. What is required of immunity/leniency applicants in terms of ongoing cooperation with

the relevant authorities?

In addition to the conditions set out in questions 3.2 and 3.3, the leniency applicant must, in any case (Article R.464-5-4 of the French Commercial Code):

- Cease immediately their participation in the cartel and at the latest immediately after submitting their application, unless the *rapporteur general* deems their continued participation reasonably necessary to preserve the integrity of the investigation,
- Cooperate with the FCA in a genuine, full, ongoing and prompt manner, from the moment the application is filed and throughout the investigation proceeding. This namely includes making itself and its representatives available to respond to any request from the FCA, providing the FCA with all information required, refraining from disclosing the existence or the content of the leniency application, unless the FCA gives its prior agreement and not challenging the information disclosed to the FCA in the course of the proceedings.
- Neither have destroyed or falsified evidence of the cartel, nor have disclosed its intention to submit a leniency application or its content, except to other competition authorities.

14. Does the grant of immunity/leniency extend to immunity from criminal prosecution (if any) for current/former employees and directors?

In order to ensure the attractiveness of the leniency program, Article L. 420-6-1 of the French Commercial Code provides that directors, managers and other staff members of the undertakings concerned, which have played a personal and decisive role in the design, organization or implementation of the cartel are exempt from criminal fines provided for in Article L. 420-6 of the same code, if the undertaking to which they belong has been granted full exemption pursuant to a leniency application, and if it is established that said person has actively cooperated.

Please note that this fine exemption is not granted to the individuals that were aware, at the time of the application for leniency by their undertaking, of administrative or judicial proceedings relating to their participation in the practices that are subject to the leniency application.

The FCA may however still refer the file to the Public Prosecutor if the practices investigate appear to justify the application of Article L.420-6 of the French

Commercial Code and must indicate, where applicable, the individuals who appear eligible for an exemption from fines.

15. Does the investigating authority have the ability to enter into a settlement agreement or plea bargain and, if so, what is the process for doing so?

Yes. Under Article L. 464-2, III of the French Commercial Code the French Competition Authority may enter into a settlement agreement with undertakings that are subject to an investigation. Settlement procedure is governed by the FCA's Communication of 21 December 2018 on the settlement procedure (*Communiqué de procédure du 21 décembre 2018 relatif à la procédure de transaction*).

(i) The settlement procedure may be initiated by the *rapporteur général*, either on his own initiative or at the request of the undertaking concerned, but only after the statement of objections has been issued. The undertaking concerned may also include in its request of settlement commitments to address the competitive issue identified during the investigation. The undertaking's waiver of its right to contest the objections must take the form of a declaration in which the undertaking states, in clear, complete, unambiguous and unconditional terms, that it does not contest the reality of all the practices at issue, their legal characterisation as set out in the statement of objections, or their attribution to the undertaking. The waiver of the right to contest the reality of the practices must cover their materiality, their duration, their geographic scope and the participation of the undertaking in the practices. In other words, the undertaking concerned only keeps the possibility to discuss the amount of the fine incurred.

Under this procedure, the *rapporteur général* proposes a fine range to the undertaking in exchange for the latter's commitment not to contest the objections notified against it. If corrective commitments were proposed by the undertaking concerned, the *rapporteur général* must assess if they are substantial, credible and efficient and if so, taking them into account to determine the fine range and reduction. If the undertaking accepts the proposed range, the case is referred to the *Collège* of the FCA, which issues a decision imposing a fine within the agreed range. The settlement typically results in a reduction of the fine of approximately 10% to 25% compared to the fine that would otherwise have been imposed. The settlement procedure may be cumulated with the benefit of the leniency application. Among the five past years 17 decisions issued by the FCA included

transaction settlements.

(ii) Hybrid settlements are possible. In cases involving multiple undertakings, some parties may choose to settle while others may elect to follow the standard adversarial procedure. However, the FCA generally moves forward on settlement agreement when all the parties agree to it.

(iii) The settlement procedure can only be initiated after the issuance of the statement of objections. It is therefore available at a relatively advanced stage of the investigation, once the objections have been formally set out.

(iv) Court approval is not required. The settlement decision is rendered by the *Collège* itself.

The settlement procedure is strictly confidential. Settlement-related materials are excluded from the investigation file, regardless of whether the procedure results in an agreement or not. Where the procedure is successful, the official settlement minutes (*procès-verbal*) signed by the undertaking may not be disclosed to the other parties to the proceedings or to any third parties, in accordance with the FCA's Communication of 21 December 2018 on settlement procedure.

16. What are the key pros and cons for a party that is considering entering into a settlement with the relevant authority?

The key advantages and disadvantages of entering into a settlement with the FCA may be summarised as follows.

On the advantages side:

(a) the undertaking may benefit from a reduction of the fine incurred, typically in the range of 10% to 25%, providing financial certainty as the fine is set within a pre-agreed range;

(b) the settlement procedure generally results in a shorter decision, which may limit the amount of factual and legal detail made publicly available, thereby reducing reputational exposure;

(c) the procedure brings the investigation to a swifter conclusion, reducing the costs and management disruption associated with protracted adversarial proceedings.

On the disadvantages side:

(a) the undertaking must formally waive its right to contest the objections, which constitutes an

acknowledgment of the infringement that may be relied upon by third parties in subsequent damages actions before the civil or commercial courts;

(b) most of the time the range of fine reduction proposed by the rapporteur general remains limited (approximately between 10 – 15 % reduction) ;

(c) the scope of the right to appeal a settlement decision is significantly narrowed, as the undertaking has waived its right to contest the substance of the objections and may generally only challenge the fine imposed to the extent it falls outside the agreed range or raise procedural irregularities; and

(d) the admissions made in the context of a settlement may have implications for other ongoing investigations, whether before the FCA or other competition authorities, as the factual findings may be used as evidence in related proceedings and the sanction imposed on the undertaking concerned is considered as a repeat offence in case of new sanction.

17. What is the nature and extent of any cooperation with other investigating authorities, including from other jurisdictions?

The FCA cooperates extensively with other competition authorities at both the European and international levels.

(i) At the European level, the Authority is a member of the European Competition Network (ECN), established under Regulation (EC) No 1/2003, which provides a framework for the exchange of confidential information, the coordination of investigations and the allocation of cases between the European Commission and the national competition authorities of EU Member States. The FCA may share evidence and information with other ECN members, including information obtained through leniency programmes, subject to certain safeguards. By way of illustration, the Flour Mill case provides a particularly significant example of cooperation within the ECN framework. In 2008, the German Bundeskartellamt conducted dawn raids on the premises of several flour mills active in various EU Member States. Following these operations, the German, French and Dutch competition authorities received leniency applications and launched parallel investigations in close cooperation. The three authorities exchanged documents, and a German official participated in the dawn raids conducted in France. Beyond the investigative phase, the German and Dutch authorities coordinated their fines, in particular where an undertaking invoked inability to pay. Subsequently, the Belgian competition authority also opened an investigation into the same anticompetitive practices and

sanctioned five flour mills active in Belgium.

Beyond the ECN, the Authority is an active member of the International Competition Network (ICN) and maintains bilateral cooperation agreements with a number of non-EU competition authorities, including those of the United States, Canada, Brazil and other jurisdictions. These agreements typically provide for the exchange of non-confidential information, coordination of enforcement activities and mutual assistance in investigations.

18. What are the potential civil and criminal sanctions if cartel activity is established?

Under French law, cartel conduct may give rise to administrative, civil and criminal sanctions.

On the administrative side (Article L. 464-2 of the FCC), the FCA may impose financial penalties on undertakings involved in cartel practices. The amount of the fine is determined in accordance with the methodology set out in the FCA's Guidelines on fines, by reference to the value of sales, the gravity and duration of the infringement, and any aggravating or mitigating circumstances.

The total amount of the financial penalty may not exceed 10% of the highest worldwide turnover, net of tax, achieved by the group to which the undertaking concerned during one of the financial years ending after the financial year preceding that in which the practices were implemented. Alternatively, the FCA may depart from its standard fine calculation methodology included in its guidelines and impose a fixed (lump-sum) fine, in particular where the application of the standard methodology would be disproportionate or impracticable. In practice, over the past five years, the FCA has made use of this possibility in approximately half of the cases judged, notably in sectors involving small undertakings or associations of undertakings. For associations of undertakings, the maximum fine is 10% of their worldwide turnover; where the infringement by an association of undertakings relates to the activities of its members, the maximum fine is 10% of the sum of the worldwide turnover of each member active on the market affected by the association's infringement. In addition to financial penalties, the FCA may order the undertakings concerned to put an end to the infringement or impose any corrective measure of a structural or behavioural nature that is proportionate to the infringement committed and necessary to bring it effectively to an end. Where an undertaking fails to comply with such injunctions, the FCA may impose a financial penalty within the limits set out in Article L. 464-2 of the FCC, as well as periodic penalty payments (astreintes) of up to 5% of the average

daily worldwide turnover, net of tax, per day of non-compliance from the date set by the FCA (Article L. 464-2, II of the FCC). By way of illustration, in Decision No. 21-D-17 of 12 July 2021, the FCA imposed a fine of EUR 500 million on Google for failure to comply with several injunctions issued in the context of interim measures relating to the remuneration of neighbouring rights. In addition, the FCA imposed a periodic penalty payment of EUR 300,000 per day of delay upon expiry of a two-month period following a formal request for the reopening of negotiations by each of the complainants. The FCA may also order the publication of its decision, in whole or in part, in designated newspapers or on the undertaking's website, at the expense of the infringing party.

On the civil side, any undertaking, agreement or contractual clause relating to a cartel practice is automatically null and void pursuant to Article L. 420-3 of the FCC. Only a specialised commercial court has jurisdiction to declare such nullity; the FCA has no competence to do so. Furthermore, undertakings and individuals who have suffered harm as a result of cartel conduct may bring actions for damages before the competent ordinary courts on the basis of the specific regime set out in Articles L. 481-1 et seq. of the FCC, which transposes Directive 2014/104/EU on antitrust damages actions.

Compared with the general law of non-contractual liability, this specific regime significantly facilitates private enforcement through a number of rebuttable presumptions, including: (a) a presumption of fault arising from a prior decision of the FCA (including decisions rendered on the basis of a leniency application or a settlement agreement); (b) a presumption that cartel infringements cause harm; and (c) a presumption of absence of passing-on of the overcharge. Since the entry into force of the Directive, there has been a notable increase in follow-on damages claims before the French courts, although such actions remain significantly less frequent than in certain other EU Member States (such as Spain, the Netherlands and Germany).

On the criminal side, Article L. 420-6 of the FCC provides that any natural person who fraudulently takes a personal and decisive part in the design, organisation or implementation of anticompetitive practices, including cartel conduct, may be subject to a term of imprisonment of up to four (4) years and a fine of up to EUR 75,000. Criminal prosecution is initiated by the public prosecutor (*ministère public*), often upon referral by the FCA or the Minister for the Economy. In practice, however, criminal prosecutions for cartel offences remain very rare in France and have so far been limited essentially to bid-rigging cases.

Reputational consequences shall also be taken into account, namely for listed companies. In most of the cases, the FCA publishes a press release each time dawn raids are conducted. If the name of the undertakings concerned is not disclosed, the sector concerned is mentioned. Decisions imposing fines are also published on the FCA website and most of the time they give rise to a press release, largely commented in the medias.

19. What factors are taken into account when the fine is set? Does the existence of an effective corporate compliance strategy impact the determination of the fine? Please provide some examples of recent fines?

The FCA's fine-setting methodology, as set out in Article L. 464-2 of the FCC and its Guidelines on fines ("*Communiqué relatif à la méthode de détermination des sanctions pécuniaires of 30 July 2021*"), which follow a structured approach. The FCA first determines a basic amount by reference to the value of sales made by the undertaking in the relevant market during the period of the infringement, to which it applies a proportion reflecting the gravity of the infringement. The basic amount is then adjusted upwards or downwards to take into account aggravating and mitigating factors.

Aggravating factors include, in particular: (a) recidivism (*récidive*), which constitutes a significant aggravating factor and may result in a substantial increase of the fine; (b) the role of ringleader or instigator of the cartel; (c) the use of retaliatory measures against other undertakings to enforce compliance with the cartel arrangement; and (d) the continuation of the infringement after the commencement of the investigation.

Mitigating factors include, in particular: (a) the passive or minor role of the undertaking in the infringement; (b) cooperation with the Authority during the investigation, outside the scope of the leniency programme; (c) the voluntary termination of the infringement prior to the opening of the investigation; and (d) the undertaking's financial difficulties, where the imposition of the full fine would irreparably jeopardise its economic viability (*inability-to-pay claims under the Authority's guidelines*).

As regards the impact of compliance programmes, the FCA has recognised that the effective implementation of a genuine and robust corporate compliance programme may justify a reduction of the fine. However, the programme must be more than merely formal; the undertaking must demonstrate that it was genuinely designed and implemented to prevent anticompetitive

conduct.

By way of recent examples: (i) in Decision 24-D-07 of 12 June 2024 relating to practices in the household cleaning products sector, the FCA imposed fines totalling approximately EUR 39 million, taking into account both the gravity and duration of the practices as well as the individual situations of the undertakings concerned; and (ii) in Decision 23-D-09 of 29 June 2023 in the floor coverings sector, the FCA imposed fines of over EUR 300 million, with significant variations among the parties reflecting, *inter alia*, differences in the duration of participation, the role played by each undertaking and the benefit derived from leniency and settlement reductions.

20. Are parent companies presumed to be jointly and severally liable with an infringing subsidiary?

Yes. Under French competition law, a parent company may be held jointly and severally liable for the cartel conduct of its subsidiary where the two entities form a single economic unit (*unité économique*). The FCA applies the rebuttable presumption, consistent with EU case law, that a parent company holding all or substantially all of the capital of a subsidiary exercises decisive influence over the latter's commercial policy. Where a parent company holds 100% (or nearly 100%) of the share capital of the infringing subsidiary, there is a rebuttable presumption that the parent company actually exercises decisive influence over the subsidiary's conduct. The parent company may rebut this presumption by adducing sufficient evidence to demonstrate that the subsidiary acted autonomously on the market and that the parent did not in fact exercise decisive influence over its commercial policy and therefore that they do not constitute the same economic entity. However, in practice, this presumption is difficult to rebut.

21. Are private actions and/or class actions available for infringement of the cartel rules? Are opt out class actions available?

Yes. French law provides for private actions for damages in cases of anti-competitive practices, including cartels. These actions fall into two categories: stand-alone sanctions on the one hand, and follow-on actions on the other.

A stand-alone action is brought before specialized ordinary courts in the absence of any prior decision by a competition authority. It constitutes a particularly effective alternative to filing a complaint with the FCA when the victim wishes to act quickly. The courts have

the power to independently classify anti-competitive practices, order the immediate cessation of such practices, in summary proceedings, on the grounds of manifestly unlawful interference (Art. 835 of the French Code of Civil Procedure), within a limited timeframe, and award damages, without waiting for the outcome of administrative proceedings that may last several years. However, the ordinary court does not impose any monetary penalties, as this remains the exclusive prerogative of the FCA. It may also declare anti-competitive contracts or clauses null and void (Art. L. 420-3 of the French Commercial Code). In this context, the victim bears the burden of proving the existence of the practice, while being able to rely on the rebuttable presumption of harm applicable to agreements between competitors (Art. L. 481-7 of the French Commercial Code). When the court is faced with complex economic or legal issues, it may, on its own initiative or at the request of a party, consult the FCA for an opinion, both on the classification of the practice and on the assessment of the amount of harm (Art. L. 462-3 of the French Commercial Code; Art. R. 481-1 of the French Commercial Code). This opinion is not binding on the court but provides valuable technical insight.

The follow-on action is brought following a final decision by the ADLC or the European Commission finding the infringement. It is governed by Directive 2014/104/EU (the "Damages Directive"), transposed into French law by Order No. 2017-303 of 9 March 2017, codified in Articles L. 481-1 et seq. of the French Commercial Code. These provisions allow any person who has suffered harm resulting from a violation of competition law (cartel, abuse of a dominant position) to obtain compensation. Its key advantage lies in the irrebuttable presumption attached to the competition authority's final decision regarding the existence of the infringement (Art. L. 481-2 of the French Commercial Code): the defendant cannot challenge the reality of the practice before the civil court, which considerably lightens the plaintiff's burden of proof. The victim, however, remains required to prove the harm suffered and the causal link, while benefiting, in cases of cartels, from the rebuttable presumption of harm (Art. L. 481-7 of the French Commercial Code).

These actions may be brought individually or collectively. With regard to class actions, the law of 17 March 2014 (the "Hamon Law") introduced class actions into French law, which were extended to competition law by the law of 20 November 2023. Only certain accredited associations or authorized organizations may bring such an action. These actions are "opt-in" rather than "opt-out": victims must actively join the class, and there is no "opt-out" class action mechanism in France.

22. What type of damages can be recovered by claimants and how are they quantified?

Under Articles L. 481-3 et seq. of the French Commercial Code, victims are entitled to full compensation for their loss (*the principle of full compensation*), without any punitive damages element. The French Commercial Code provides a non-exhaustive list of compensable categories of loss:

- the overcharges incurred as a result of the collusion, provided that they were not passed on to a subsequent contractor;
- the loss of profits resulting from the decline in sales volume caused by the partial or total passing on of these overcharges;
- loss of a business opportunity;
- non-economic damages, which are rarely claimed and for which the amount awarded is generally limited.

For the purposes of quantification, courts permit the use of economic experts and econometric methods (such as "before-and-after," "yardstick," or "cost-based" methods). When precise quantification is not possible, the Damages Directive authorizes courts to estimate the loss. The burden of proof on the plaintiff is further alleviated by the rebuttable presumption set forth in Article L. 481-7 of the French Commercial Code, under which cartels are presumed to cause harm.

The compensation may be limited by the mechanism of 'passing-on'. When a direct purchaser (for example, a distributor who has acquired products at a price artificially inflated by a cartel) passes on this additional cost to its own customers by raising its resale prices, it no longer bears, in whole or in part, the economic burden of the infringement. His net loss is thereby reduced accordingly, and he cannot obtain compensation for a loss that he has transferred to others.

This mechanism operates on two levels. On the one hand, the perpetrator of the practice may invoke passing-on as a defense to limit the amount of damages claimed by the direct purchaser. It is up to the perpetrator to provide proof of this, as Article L. 481-4 of the French Commercial Code presumes that the pass-through did not occur. On the other hand, indirect purchasers who have absorbed the pass-through of the additional cost may in turn bring an action for damages against the perpetrator of the infringement (Art. L. 481-5 of the French Commercial Code.): they benefit from a presumption that the cost has been passed on to them once they establish the existence of the violation, the existence of an additional cost for the direct purchaser, and the fact that they themselves

acquired the goods or services in question. It should be noted that even in the event of full passing-on of the additional cost, the direct purchaser may retain a separate cause of action for lost sales if the price increase has led to a decline in its customer base. Determining the amount of damages in cases of passing on is highly complex (it is necessary to isolate the proportion of the additional cost actually passed on, its impact on sales volumes, and to distinguish the harm suffered by each link in the chain) and in practice requires the assistance of an economic expert employing appropriate econometric methods.

23. What is the limitation period for bringing a claim?

Pursuant to Article L. 482-1 of the French Commercial Code, the statute of limitations is 5 years, starting from the date on which the plaintiff became aware or should have become aware of all of the following:

- The acts or facts attributed to one of the natural or legal persons referred to in Article L. 481-1 of the French Commercial Code and the fact that they constitute an anticompetitive practice;
- The fact that this practice causes the plaintiff harm;
- The identity of one of the perpetrators of this practice.

However, the statute of limitations does not run until the anticompetitive practice has ceased. This rule is particularly significant for ongoing practices (such as long-term agreements), for which the starting point of the limitation period is deferred until the practice has actually ceased. For one-time practices, where the triggering event is a single, isolated act, cessation occurs at the very moment the act is committed, so that the five-year period begins as soon as the aforementioned conditions for knowledge are met.

Furthermore, regardless of the circumstances, the action for damages is subject to a limitation period of ten years from the cessation of the anticompetitive practice (Art. L.462-7 of the French Commercial Code), such that the postponement of the starting point of the five-year period due to lack of knowledge cannot allow for action beyond this absolute deadline.

24. On what grounds can a decision of the relevant authority be appealed?

Decisions of the FCA may be appealed before the Court of Appeal of Paris, pursuant to Articles L. 464-7 et seq. of the French Commercial Code. The parties may challenge:

- the merits: the very existence of the infringement, the characterization of the practices, the evidence of the cartel, and its anticompetitive object or effect;
- the procedure: breach of the rights of the defense, irregularities in the investigation procedure, or procedural defects;
- the level of the fine: proportionality, the taking into account of mitigating or aggravating circumstances, and the application of the FCA's guidelines on sanctions.

As the appeal is one of full jurisdiction, the Court of Appeal of Paris may reform the decision, avoid the finding of infringement, or reduce or even increase the amount of the fine.

25. What is the process for filing an appeal?

The appeal must be filed within 1 month of notification of the decision (Article R. 464-17 of the French Commercial Code); this deadline is mandatory.

The Court of Appeal of Paris (5th-7th Chamber, specialized in economic law) has exclusive jurisdiction.

The appeal does not automatically suspend enforcement of the decision, but a party may apply for a stay of execution before the First President of the Court of Appeal of Paris, in particular with regard to the payment of the fine.

Accredited consumer associations may voluntarily intervene in an appeal proceeding already initiated by an authorized party, provided they can demonstrate a sufficient interest in relation to the practice at issue (Articles 325 et seq. of the French Code of Civil Procedure). In this context, they may seek compensation for harm caused to the collective interests of consumers without an individual mandate from the consumers concerned (Article L. 621-9 of the French Consumer Code).

Decisions of the Court of Appeal of Paris may be appealed to the Commercial Chamber of the Court of Cassation.

As a general rule, court costs are borne by the losing party (Article 696 of the French Code of Civil Procedure), while the award of costs and non-recoverable expenses (Article 700 of the French Code of Civil Procedure) is left

to the discretion of the court.

26. Practitioner points specific to the jurisdiction

(i) Recent notable cartel cases (limited to one or two key examples, with a very short summary of the facts, decision and sanctions/level of fine);

In 2025, the French Competition Authority issued 9 adjudicatory decisions and imposed a total of €379 million in fines.

Among these decisions, two directly concern anti-competitive cartel practices and deserve special attention.

The Decision 25-D-07 of 17 November 2025 concerning the fuel distribution sector in Corsica) is the most significant decision of the year, with fines totalling 187.4 million Euros.. Several companies that are shareholders of Dépôts Pétroliers de la Corse (DPLC), namely TotalEnergies Marketing France (TEMF), two companies of the Rubis group, and EG Retail, implemented, through a written agreement, a cartel consisting of reserving for their exclusive benefit a right of way within Corsican oil depots. This is not a classic price-fixing or market-sharing agreement, but a horizontal exclusionary agreement: companies that were not shareholders of DPLC were forced to purchase their fuel under conditions imposed by their own rivals, incurring higher costs due to the layering of multiple margins, which undermined their competitiveness and may have led to higher prices at the pump for Corsican consumers.

The Decision 25-D-03 of 11 June 2025 concerning non-solicitation agreements in engineering and IT services), resulted in fines amounting to a total of €29.5 million for non-solicitation practices. Two separate agreements were identified: one between Ausy (now Randstad Digital) and Alten, and the other between Expleo and Bertrandt. These companies had entered into general gentlemen's agreements aimed at mutually prohibiting each other from soliciting and hiring one another's staff, a key competitive factor in the labor markets of the engineering, technology consulting, and IT services sectors. These practices were brought to the attention of the FCA as part of a leniency application filed by Ausy in April 2018, and were subsequently confirmed following on-site inspections and seizures conducted in November 2018. The FCA reaffirms on this occasion that general non-solicitation agreements are anti-competitive by nature, even when considered in isolation, particularly when their temporal and material scope is broad and imprecise.

This trend continued in early 2026, with two notable decisions.

The Decision 26-D-03 of 17 March 2026 imposed a fine of 3.4 million Euros on the Syndicat National des Moniteurs du Ski Français (SNMSF) for imposing an exclusivity obligation on its member instructors that prohibited them from practicing their profession outside of ESF ski schools, a practice deemed to be a restriction of competition by object within the meaning of Article L. 420-1 of the French Commercial Code and Article 101 of the TFEU.

The Decision 26-D-04 of 2 April 2026, for its part, fined Nexans and Sonepar a total of 6.5 million Euros for colluding to grant exclusive rights to import electrical cables in the overseas departments and regions, in violation of the Lurel Law of 20 November 2012, which prohibits exclusive import agreements in these territories. This decision is also the first issued by the Authority following a report by a whistleblower.

(ii) Key recent trends (e.g. in terms of fines, sectors under investigation, any novel areas of investigation, applications for leniency, approach to settlement, number of appeals, impact of hybrid working in enforcement practice – e.g. dawn raids of domestic premises, ‘hybrid’ in-person/virtual dawn raids and interviews, access to personal devices and instant messaging apps, prevalence of private class actions etc.); and

In its 2025 Activity Report, the FCA reports 9 adjudicatory decisions and €379 million in fines, a sharp decline from the annual average of €656 million observed since 2010, though this decline does not reflect a relaxation of oversight, but rather a shift in the profile of the cases handled.

The two most significant antitrust decisions of 2025 concerned, on the one hand, a horizontal exclusionary agreement in the distribution of fuel in Corsica (Decision 25-D-07, €187.4 million against TotalEnergies Marketing France, the Rubis Group, and EG Retail) and, second, on general non-solicitation agreements in the engineering and technology consulting sectors (Decision 25-D-03, €29.5 million against Alten, Bertrandt, and Expleo). This decision reflects a clear intention to extend the application of competition law to labor markets, in line with an emerging trend at the European level. It also illustrates the effectiveness of the leniency program as a detection tool: it was a leniency application filed as early as April 2018 by Ausy that brought the non-solicitation practices to light, earning the company full immunity from fines.

This trend continued in 2026. Decision 26-D-04 of 2 April 2026, imposing fines totaling 6.5 million Euros on Nexans and Sonepar for exclusive rights to import electrical cables into France’s overseas departments and regions, sets a notable precedent in this regard: it is the first decision issued by the FCA following a report by a whistleblower, whose anonymity was preserved throughout the proceedings.

Procedurally, on 13 January 2025, the FCA published a reform of its procedure for handling trade secrets, adopted with a legal framework remaining unchanged. This reform aims at reducing investigation timelines by requiring a more rigorous application of the concept of trade secrets by the parties and by limiting, as a general rule, the number of handling decisions to a single decision per party involved.

Finally, Law No. 2026-122 of 23 February 2026, establishes for the first time in French law protection for the confidentiality of consultations with in-house counsel, subject to compliance with cumulative conditions (master’s degree in law, training in ethical rules, explicit confidentiality clause). While this protection should in principle be enforceable against the FCA in the context of its inspections conducted pursuant to Articles L. 450-3 and L. 450-4 of the French Commercial Code, its relationship with the restrictive case law of the Criminal Chamber of the Court of Cassation, which recognizes attorney-client privilege only in direct connection with the exercise of the right to defense, remains a major area of uncertainty. Furthermore, the protection will not apply neither to criminal proceedings nor to investigations conducted by the European Commission pursuant to Regulation (EC) No. 1/2003. The law will enter into force at a date set forth by decree, that shall not exceed 12 months after the promulgation of the law.

(iii) Key expected developments over the next 12 months (e.g. imminent statutory changes, procedural changes, upcoming decisions, etc.).]

Several ongoing proceedings are expected to result in antitrust decisions in the coming months.

The Authority’s investigative teams conducted several search and seizure operations in 2025, particularly in the cancer treatment and glass packaging sectors, which are expected to lead to future statements of objections and, ultimately, to decisions finding violations.

The Authority has also announced that it will issue several substantive decisions regarding practices in the overseas territories, notably in the public works sector in Wallis and Futuna, the distribution of electrical cables in

the overseas departments, port services in Mayotte, and the collection of medical waste in Réunion.

Following Decision 25-D-03, new proceedings concerning non-solicitation agreements and wage-fixing agreements are to be expected, as the FCA has clearly indicated that the extension of competition law to labor markets constitutes a priority area of its enforcement program.

Given the size of the fine imposed (€187.4 million), an appeal to the Paris Court of Appeal against Decision 25-D-07 regarding fuel in Corsica also seems likely.

The roadmap presented on 10 July 2025, by the FCA's President identifies three major priorities for the 2025–2026 period: digital markets and artificial intelligence, the sustainability imperative, and the preservation of purchasing power across the entire national territory, including overseas territories. In this context, in January 2026 the Authority launched an unprecedented competitive review of the AURA (Intermarché, Auchan, Casino) and CONCORDIS (Carrefour, Coopérative U, RTG) purchasing alliances, with results expected by the end of 2026 for the former and in 2027 for the latter.

The full implementation of the ECN+ Regulation will also continue to shape the Authority's procedural practices, particularly regarding leniency and commitments. The Decision 26-D-03 of 17 March 2026 concerning ski instructors marks, in this regard, the first effective application of the new provisions resulting from the transposition of the ECN+ Directive into French law, as the FCA has, for the first time, calculated a penalty for a professional association based on the total revenue of all its active members in the affected market, in accordance with the new provisions of Article L. 464-2 of the French Commercial Code. The infringer is imposed an injunction

to request the ski instructors to contribute to the payment of the fine if their association is not sufficiently funded to pay.

It should also be noted that issues regarding access to personal devices and instant messaging applications during search and seizure operations, as well as the conduct of dawn raids on private premises, are increasingly being raised in court.

The detailed annual report covering the 2025 fiscal year is expected in the summer of 2026 and should provide a comprehensive overview of all these developments.

Furthermore, while not directly related to cartels but potentially having a significant impact, the raising of notification thresholds for merger control (which had remained unchanged since 2004) was the subject of a major legislative development. On 14 and 15 April 2026, the French National Assembly and the Senate respectively adopted the draft law on simplifying economic life, Article 8 of which raises the revenue thresholds triggering the obligation to provide prior notification to the FCA (the combined global threshold rising from €150 million to €250 million and the French threshold from €50 million to €80 million). Subject to the law's validation by the French Constitutional Council and its promulgation by the President of the Republic, the new thresholds are scheduled to take effect on the first day of the fourth month following the month of the law's publication and will apply to mergers notified to the FCA as of that date. At the same time, the FCA continues to pursue the introduction of a power of referral allowing it to examine transactions below the notification thresholds. If these reforms are successful, they would significantly restructure the French competitive landscape and redefine the resources the FCA can devote to enforcing competition law more broadly.

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