

DGCCRF's 2016 activity report

On February 23, 2016, the *Direction Générale de la Concurrence, de la Consommation et de la Répression des Fraudes* (General Directorate for Competition, Consumer Protection and Frauds, hereinafter “DGCCRF”) released its 2016 activity report.

In this report, the DGCCRF - which monitors the proper operation of the markets to the benefit of consumers and businesses - highlights the salient facts of 2016 concerning inter alia the balance of business relationships, the fight against late payments and the fight against anti-competitive practices. It also provides a status report on its activity concerning the rules on economic protection of consumers and the fight against abusive practices.

The publication of the DGCCRF's annual activity report is an opportunity for this Directorate of the Ministry of Economy to provide a status report on its monitoring activities in the areas within its sphere of jurisdiction.^[1]

In this context, let us briefly recall these areas as well as the way DGCCRF agents operate.

The DGCCRF monitors compliance with competition rules and oversees the economic protection of consumers and the safety and conformity of products and services.

Spread out across the country, DGCCRF agents are endowed with specific investigative powers and are empowered to detect and investigate infringements and breaches of applicable rules. As recalled by the DGCCRF in its activity report, it has “standard” investigative powers to access information that is useful to identify an infringement or a breach of applicable rules (access to premises, collection of copies of documents, etc.). Depending on the purposes of the investigation, DGCCRF agents may carry out dawn raids with the prior authorization of the competent judicial authority.

The investigation services of the DGCCRF determine the actions that ought to be taken in relation to identified unlawful behaviors, it being specified that such actions must be commensurate with the seriousness of the

relevant breach or infringement. As such, actions can be intended to “educate” the infringer, i.e. issuance of warnings to infringing operators informing them that a breach or minor infringement of applicable regulations has been identified. So called “remedial” actions intended to achieve compliance and/or end the identified unlawful behavior (e.g. injunctions to ensure compliance, administrative police measures, etc.) or “enforcement” actions (e.g. administrative fines, summons to appear before civil or commercial courts, transmission of infringement reports to the Public Prosecutor to have the judge subsequently impose a fine or a sentence of imprisonment, etc.) may also be taken by the DGCCRF.

The DGCCRF’s 2016 activity report in figures

In 2016, DGCCRF agents performed a total of 578,699 checks and inspected 116,053 establishments. 10,829 websites were investigated.

The investigations carried out by DGCCRF agents resulted in 85,828 warnings, 24,811 administrative police measures (including 24,166 injunctions), 10,940 reports for criminal offenses and 4,254 reports for administrative offenses.

2,674 administrative fines were paid, for a total of almost 14 million euros.

The message is clear: The DGCCRF actively monitors the behaviors and practices of economic operators on the French market, both in terms of B2B and B2C.

Review of the DGCCRF’s activities

This annual activity report reminds economic operators that they operate in highly regulated sectors and provides insights into the areas where the DGCCRF has stepped up its actions.

In this context, it should be noted that the activities of the DGCCRF devoted to the detection and prosecution of practices that are detrimental to the proper functioning of markets focused *inter alia* on the following:

- Combatting late payments

Through its activity report, the DGCCRF confirms its intention to actively combat infringements of the rules governing payment terms. Following checks performed in 2,678 establishments, 228 procedures for the imposition of administrative fines - for a total of almost 11 million euros - were initiated in 2016.

- Combatting abusive practices

In its activity report, the DGCCRF specifies that the digital economy, because of its “*extremely rapid development*”, has been “*subject to particularly close scrutiny, both as regard the protection of consumers and the monitoring of its competitive patterns*”.

10,829 websites were inspected in 2016 by the DGCCRF. For 1/3 of these sites, the DGCCRF has identified “anomalies” concerning the rules governing consumer protection and information.

The reports also shows that the checks that have been performed resulted in 19 infringement reports “concerning websites that displayed illusory reference prices in such a way as to feature artificial price reductions and to alter consumers’ perception of the proposed offer”. Some of the procedures initiated by the DGCCRF resulted in settlement agreements, for a total amount in excess of 2 million euros. According to the DGCCRF’s 2016 activity report, most of the relevant major groups have pledged to adjust their practices to ensure greater transparency for consumers and to offer more loyal promotions.

- Balanced commercial relationships

Still according to this report, DGCCRF agents carried out 13,356 inspections at 3,811 establishments to check the balance of economic relationships between economic operators and, in particular, between suppliers and distributors (e.g. impact that purchasing cooperation agreements in the large retail sector have on commercial negotiations with suppliers, requests for margin offsets), between franchisors and franchisees (e.g. food distribution networks), between online market places and professionals that offer goods and services online, and between contractors and subcontractors.

[1] The DGCCRF’s 2016 activity report is available at: http://www.economie.gouv.fr/files/files/directions_services/dgccrf/dgccrf/rapports_activite/2016/resultats-2016-dgccrf.pdf

Soulier Avocats is an independent full-service law firm that offers key players in the economic, industrial and financial world comprehensive legal services.

We advise and defend our French and foreign clients on any and all legal and tax issues that may arise in connection with their day-to-day operations, specific transactions and strategic decisions.

Our clients, whatever their size, nationality and business sector, benefit from customized services that are tailored to their specific needs.

For more information, please visit us at www.soulier-avocats.com.

This material has been prepared for informational purposes only and is not intended to be, and should not be construed as, legal advice. The addressee is solely liable for any use of the information contained herein.