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Competition and Regulation in Professional Services – Note by France

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1. The purpose of this note from the French authorities is to present the objectives and advances of the 2015 Law for Growth and Activity, which lifted a significant number of restrictions in the regulated professions sector (1), as well as the action of the *Autorité de la concurrence* in this sector (2).

1. The objectives and advances of the law for growth and activity

2. 2015 was marked by France's determination to unleash growth potential by lifting identified regulatory restrictions in major sectors of the service economy, particularly the regulated professions sector. Almost ten years after the French Law 2015-990 of 6 August 2015 for Growth, Activity and Equal Economic Opportunities (also known as the "Law for Growth and Activity"), France has set itself apart with a major relaxation of its regulations in the regulated professions sector. Indicators tend to show that reforms in this area have helped to create jobs, stimulate growth and lower prices (France Stratégie, 2019)¹. While France has never ceased to recognise the importance of greater flexibility in the regulation of certain professions, it has always paid particular attention to the balance between the regulation of certain professions linked to the exercise of public interest missions and the strengthening of competition to encourage productivity gains and growth.

1.1. The regulated professions: balancing public interest objectives and economic efficiency

Regulated professions are professional activities whose access, practice or modalities are subject to specific conditions laid down by law or regulation. They concern various sectors of the French economy (Council of Economic Analysis (Conseil d'analyse économique), 2014)²: the healthcare professions (doctors, dental surgeons, medical biologists, etc.), the legal and judicial professions (lawyers, notaries, commissioners of justice, etc.), the technical and living environment professions (architects, chartered accountants, land and agricultural experts, etc.), the transport professions (taxis, driving instructors, etc.) and the service professions (hairdressers, hoteliers, restaurateurs, etc.). Regulated professions can benefit from monopolies and rents, barriers to entry into the profession (exclusive rights, level of training, compulsory membership of a professional body, existence of a *numerus clausus*), or regulations on the exercise of the profession (regulations on prices and tariffs, advertising, the legal nature under which the activity can be practised - liberal practice only or option of via a company -, inter-professional cooperation).

For activities with certain atypical characteristics, it is economically accepted that one or more specific regulations are required to prevent the malfunctions that a free market organisation of the products or services concerned would cause (General Inspectorate of Finance (Inspection générale des finances), 2013)³. Regulatory constraints are necessary

¹ France Stratégie, "De meilleures réglementations pour plus d'emplois ?", Summary note, 2019

² Conseil d'analyse économique, "Quelles réformes pour la France? Les préconisations du CAE", Note 15, 2014

³ Inspection générale des finances, "Les professions réglementées, tomes 1, 2 et 3, mars", Report, 2013

when free competition does not allow resources to be allocated efficiently or when public objectives require it. There are three main reasons for regulating the professions. First, the asymmetry of information between consumers and service providers is an initial market failure that can be remedied by regulation. Service providers need a high level of technical expertise that consumers do not necessarily possess, so they may find it difficult to assess the quality of the services they purchase. The services offered are "trusted products" whose quality cannot be easily determined by prior observation or even, in some cases, by consumption or use (European Commission, 2004)⁴. Second, external effects can constitute a second market failure that can be remedied by regulation. The provision of a service can have external effects - or externalities - that go beyond the players directly involved in the professional services. For example, the correct drafting of notarial deeds leads to legal certainty that benefits everyone, and is therefore a positive external effect that explains why the profession is regulated. Lastly, professional services are of value to society as a whole (European Commission, 2004)⁵. Several professional services contribute to the creation of collective goods, such as public health for healthcare professionals, legal certainty and the administration of justice for legal professionals, urban planning for architects and road safety for taxi drivers and road passenger transport. The regulation of such professions therefore helps to ensure the production of collective goods for society as a whole.

However, regulating the regulated professions can be detrimental to the economy. On the one hand, it can lead to the existence of "economic rents". While there is consensus in the literature that the existence of rents damages the efficiency of the economy, there are several ways of reducing them; either by encouraging the emergence of competition in activities that are not likely to be under a monopoly, or by better regulating the pricing of these monopoly activities. This is the broad thrust of most of the provisions of previous reforms in France, aimed either at facilitating entry into certain professions or at reforming their fees (France Stratégie, 2015)⁶. The degree of regulation leads to the reinforcement of rents, not least due to barriers to entry (Cette et al. 2018)⁷. On the other hand, regulation can ultimately lead to less innovation, less product creation, lower productivity gains, higher prices and, ultimately, an effect contrary to the public interest. The negative relationship between regulatory burden and economic growth has long been highlighted (Nicoletti and Scarpetta, 2003)⁸.

While the regulations applicable to certain professions may be considered legitimate in many respects, it should be recalled that they must involve guaranteeing consumers' interests and not protecting professionals from competition (Directorate General of the Treasury (Direction Générale du Trésor), 2016)⁹. The aim is to strike the right balance

⁴ Communication of the European Commission of 9 February 2004, Report on Competition in Professional Services, 17 February 2004.

⁵ Ibid.

⁶ France Stratégie, "Réformes des professions réglementées du droit", Commission d'étude des effets de la loi pour la croissance et l'activité (Study Commission for the Law on Economic Growth and Activity), 2015

⁷ Cette G. et al. "Rent creation and sharing: New measures and impacts on TFP", National Bureau of Economic Research, No. 24426, 2018

⁸ Nicoletti G. and Scarpetta S., "Regulation, productivity and growth: OECD evidence", Economic Policy, vol. 18, issue 36, 2003, p. 9-72

⁹ Directorate General of the Treasury (Direction générale du Trésor), "Les professions réglementées au cœur de la réforme", Nasse Seminar, 2016

between the pursuit of public interest objectives and the quality and equality requirements, which are the primary justifications for regulation, and intense competition.

By reducing regulatory barriers and intensifying competition in the regulated professions, France has sought to encourage the creation of an environment conducive to job creation, innovation and growth. In particular, the economic literature has shown that easing the regulations for these professions is likely to boost an economy's productivity by eliminating the least competitive players and encouraging the incumbent players to innovate (Canton et al. 2014)¹⁰. A reduction in regulatory barriers means that new companies can set up in the sectors affected by the reform, prices can fall and consumers can increase their purchasing power. In addition, lower prices make companies more competitive when exporting; this gain in price competitiveness stimulates exports and again increases the country's growth and employment (France Stratégie, 2019)¹¹. In its 2013 report, the French General Inspectorate of Finance (Inspection générale des finances, IGF) estimated that in-depth reform of the regulated professions could generate 120,000 jobs and 0.5 points of GDP (French General Inspectorate of Finance (Inspection générale des finances), 2013)¹². Furthermore, France could increase its productivity by 5% in the long term if it eased certain regulations (PMR index developed by the OECD). Lower regulatory barriers to sector entry could also lead to productivity gains of around 4% (Cette et al. 2018)¹³. Although the implementation of reforms to relax regulation in the regulated professions sector only has real effects in the long term, France had every interest in initiating measures in recent years to steer the economy in a new, more inclusive and innovative direction (Bénassy-Quéré, 2014)¹⁴.

1.2. Regulated professions at the heart of new reforms

3. By adopting the Law for Growth and Activity, France wanted to unleash growth potential by lifting the identified regulatory restrictions in major sectors of the regulated professions, particularly the legal professions sector. As part of an overall drive for structural reform of the French economy, the law calls into question various regulations governing the regulated legal professions, on the grounds of economic inefficiency. The aim of the reform is to combat professional rents and boost growth and employment by liberalising and opening up to competition. While the regulated professions - and in particular the legal professions covered by the Law - account for a very small percentage of employment, they nevertheless play an important economic role in the business services sector and in the proper functioning of many markets (France Stratégie, 2015)¹⁵. The improved functioning of these sectors has positive repercussions for the economy as a whole.

¹⁰ Canton E., Ciriaci D. and Solera I., "The economic impact of professional services liberalization", Directorate General Economic and Financial Affairs (DG ECFIN), Economic Papers, No. 533, European Commission, 2014

¹¹ France stratégie, "Améliorer la réglementation peut-il réduire le chômage structurel ?", Working Paper, n°2019-05, 2019

¹² Inspection générale des finances, "Les professions réglementées, tomes 1, 2 et 3, mars", Report, 2013

¹³ Cette G. et al. "Rent creation and sharing: New measures and impacts on TFP", op. cit.

¹⁴ Agnès Bénassy-Quéré, "Non, les politiques de l'offre ne sont pas les ennemies de la demande", Le Cercle des économistes, 2014

¹⁵ France Stratégie, "Réformes des professions réglementées du droit", op. cit.

4. Long before the 2015 reform, numerous reports called for the easing of the regulatory hurdles for many professions, including the legal professions (Armand-Rueff Report, 1960; Cahuc Kramarz Report, 2004; Attali Report, 2008; French General Inspectorate of Finance (Inspection générale des finances) Report, 2013). The 2015 reform represented a remarkable step forward, introducing significant changes to certain protective regulations for the legal professions. Six regulated legal professions are affected by the Law: notaries, commissioners of justice, commercial court registrars, court-appointed administrators, court-appointed liquidators, and lawyers at the Councils (i.e. at the French Administrative Supreme Court (Conseil d'Etat) and the French Supreme Court (Cour de Cassation)).

5. On the one hand, the reform has encouraged the opening up to competition of professions under monopoly. By abolishing restrictions on lawyers' postulation within the jurisdiction of the Cour d'appel (Court of Appeal) and creating a profession of commissioner of justice through the merger of court bailiffs and judicial auctioneers, expanding the range of services these professionals can perform, the law has helped to modernise and revitalise the regulated professions by encouraging greater flexibility in the choice of professional careers. The law also facilitates the creation of joint practice companies between several regulated professions such as lawyers, notaries, bailiffs, etc., provided that the capital and voting rights are held by people practising these professions. By authorising lawyers to plead cases without territorial limitation, subject to certain reservations, and notaries, court bailiffs and judicial auctioneers to set up in areas where the establishment of offices seems beneficial (defined on the basis of a map agreed by the Ministers of Justice and the Economy on the recommendation of the French *Autorité de la concurrence* (hereinafter the "*Autorité de la concurrence*")), the law has also made it possible to facilitate the conditions for the establishment of regulated legal professions.

6. On the other hand, the reform has encouraged price competition. The law introduced new principles for setting and reviewing fees for regulated legal professions, enabling fees to be lowered by gearing them to the costs actually incurred by professionals. The law provides for a review of fees to bring them into line with actual costs. Fees must therefore take into account the relevant costs of the service provided and a reasonable remuneration, defined according to objective criteria. To achieve the objective set by the Law guaranteeing reasonable remuneration for professionals and tariffs that take into account the costs incurred, the tariffs are revised every two years by joint order of the Ministers of Justice and the Economy. The *Autorité de la concurrence* must be consulted on any changes to the structure and method for setting prices, which are defined by Decree in the Conseil d'État (French Administrative Supreme Court). In addition, the law requires legal professionals to display their fees visibly and legibly at their place of practice and on their website.

7. From the facilitation of installation conditions to the modification of fee conditions for regulated professions and interprofessionalisation, many areas of the law were addressed by the 2015 reform, which intensified competition in the regulated legal professions sector.

8. Despite France's determination to limit regulatory restrictions, they remain considerable in the regulated professions. In 2018, France was ranked 6th among the countries imposing the most restrictions according to the OECD's economy-wide product market regulation indicator. In addition to this overall indicator, the OECD also publishes sector regulatory indicators for the regulated professions, which showed that in 2018, France was above the OECD average for lawyers, accountants, architects and estate agents. Possible developments are being considered by the French authorities, in particular the

Autorité de la concurrence, which was given new powers in 2015 to regulate the regulated legal professions, and they are looking to introduce greater competition in this sector (2).

2. Action by the *Autorité de la concurrence* in the regulated legal professions sector

9. For the past nine years, the *Autorité de la concurrence* has been involved in the implementation of a major reform of the regulation of the regulated legal professions; this reform has lowered barriers to entry and fostered greater competitive emulation in this sector.

10. The reform, which stems from the Law of 6 August 2015, is based mainly on two pillars: easing the establishment conditions for certain professionals (a) and making regulated fees cost-oriented (b). In addition, the changes to the legal framework described above have prompted reactions from industry professionals, some of which the *Autorité de la concurrence* has tackled in the context of its mission to crack down on anticompetitive practices (c).

2.1. The *Autorité de la concurrence*'s consultative action on the conditions of establishment of professionals

11. The *Autorité de la concurrence* is responsible for identifying those areas of the country where there are insufficient notaries and commissioners of justice¹⁶ and for assessing the number of new professionals needed to compensate for this deficit. The *Autorité de la concurrence* carries out a similar mission for lawyers at the Conseil d'Etat (French Administrative Supreme Court) and the Cour de Cassation (French Supreme Court) (hereinafter "lawyers to the Courts")¹⁷, with the exception of needs mapping (this activity is carried out exclusively in Paris, the seat of the supreme courts).

12. This policy has had remarkable effects, particularly in the case of notaries, where it has led to an increase in the number of private practitioners of more than 40% in nine years, as well as a significant increase in the number of women and young people in the profession.

2.1.1. The missions entrusted to the *Autorité de la concurrence* by the Law of 6 August 2015

13. For the professions of notary, commissioner of justice and lawyer to the Courts, the Law of 6 August 2015 tasked the *Autorité de la concurrence* with submitting an opinion to the Government every two years, in which it makes any recommendations "to improve access to offices [...] with a view to gradually increasing the number of offices in the country."

14. The *Autorité de la concurrence* must also ensure that its recommendations meet the following objectives:

¹⁶ In 2022, commissioners of justice replaced court bailiffs and judicial auctioneers.

¹⁷ These professionals have a monopoly on representing litigants before the French Administrative Supreme Court (Conseil d'État) and the Cour de cassation (French Supreme Court) in appeals (on most points of law), as well as before the French Jurisdiction Court, which accounts for 90% of their activity.

15. open up the professions by giving young people and women the opportunity to set up on their own and offer new services;

- preserve the economic viability of existing offices;
- for notaries and commissioners of justice, improve geographical coverage in order to bring professionals closer to the population and businesses in underserved areas.
- To achieve this last objective, the *Autorité de la concurrence* proposes to the government a map of areas where the creation of offices appears "*useful to increase proximity or the provision of services*".¹⁸ This map is accompanied by recommendations on the rate of increase in the number of professionals in each area.

2.1.2. *The opinions issued by the Autorité de la concurrence*

The method applied by the Autorité de la concurrence

16. In 2016, the *Autorité de la concurrence* issued its first opinions under the Law of 6 August 2015¹⁹. In them, it described the method it uses every two years to assess and map the need for new professionals and which has been validated by the French Administrative Supreme Court²⁰. It has nevertheless had to adapt certain aspects to take account of new circumstances, such as the effects of the health emergency that began in March 2020.

17. To identify the need for new notaries and commissioners of justice by geographical area, the *Autorité de la concurrence* examined the definition of the relevant geographical market for the services provided by these professionals. For example, the analysis conducted in 2016 led the *Autorité de la concurrence* to select the "employment zones" established by the French National Institute of Statistics and Economic Studies (Institut national de statistiques, Insee) as the relevant territorial subdivisions for analysing notarial services. They correspond to the geographical area within which most of the working population resides and works. This choice led to the territory being divided into approximately 300 establishment areas.

18. To measure the supply of services, the *Autorité de la concurrence* focused on private practitioners (office-holders and partners) without taking into account employed notaries. Indeed, the latter cannot have their own clientele, hold shares in the office capital, or have the right to vote for the adoption of strategic decisions. Therefore, an increase in the number of salaried professionals increases market concentration, whereas an increase in the number of private practitioners intensifies competitive emulation.

19. To measure the demand for services, the *Autorité de la concurrence* used econometric analyses to estimate the increase in professional turnover induced by population growth. As a result, the *Autorité de la concurrence* estimated the evolution of notarial turnover in the coming years based on population projections drawn up by Insee and the turnover of professionals in the area over the last five years.

20. Lastly, using turnover thresholds per private practitioner, every two years the *Autorité de la concurrence* reevaluates the number of new notaries and commissioners of

¹⁸ Article 52 of the Law of 6 August 2015.

¹⁹ Opinions 16-A-13 of 9 June 2016, 16-A-18 of 10 October 2016, 16-A-25 of 20 December 2016 and 16-A-26 of 20 December 2016 on the freedom of establishment of notaries, lawyers to the Courts, court bailiffs and judicial auctioneers.

²⁰ Council of State, Decision No. 403815 of 16 October 2017.

justice needed in each establishment area to rebalance supply and demand by 2029²¹. Then, to satisfy the requirement for progressiveness set out in the Law of 6 August 2015, and in the light of economic factors, it determines the number of professionals to be established in the next two years, which represents only a fraction of the identified long-term need.

21. Unlike the case of notaries and commissioners of justice, it has not been possible to objectively assess the prospects for the market for lawyers to the Courts (partly because the volume of litigation depends less on socio-economic fundamentals than on court reforms). Furthermore, the pool of potential candidates for establishment is very limited. Consequently, when making its recommendations on the creation of new offices, the *Autorité de la concurrence* takes into account both anticipated developments in litigation before the French Administrative Supreme Court (Conseil d'État) and French Supreme Court (Cour de cassation), and the number of graduates not yet in private practice.

Results of the reform of establishment conditions

22. Almost ten years after its entry into force, the outcome of the reform is largely positive. However, the results differ from one profession to another.

Notaries

23. For the notarial profession, the objectives set by the legislator are well on the way to being achieved. Between 2016 and 2023, the number of notaries' offices rose from around 4,400 to around 6,900 (+57%), while the number of private practitioners increased from nearly 8,300 to nearly 12,200 (+47%). The mapping of needs increased supply in the areas with the greatest deficiencies, mainly urban and coastal areas.

24. Young people and women are the main beneficiaries of the reform, as the average age of notaries has fallen by five years to 44, and the proportion of women among partners and office-holders has risen from 32 % to 47 %. The generational transition has also been greatly encouraged by the introduction of an age limit, fixed by law at 70, for practising as a notary²².

25. Furthermore, the professionals interviewed by the *Autorité de la concurrence* highlighted other positive effects of the reform. For example, in addition to improved quality of service (greater availability of notaries), the working conditions of salaried notaries are said to have improved, with employers keen to retain the best professionals. In addition, the gradual creation of new offices recommended by the *Autorité de la concurrence* has enabled new offices to develop without compromising the viability of existing offices, which have continued to grow. The *Autorité de la Concurrence's* methodology has made it possible to take into account the impact of the real estate market situation when drawing up the latest map.

Commissioners of justice

26. However, the situation regarding the creation of commissioners of justice offices is more mixed. While the creation of new offices has made it easier for women and young people to enter the profession, it has not halted the decline in numbers that has affected the profession for at least a decade. This situation can be explained by a combination of factors, such as uncertainties linked to the creation of the new profession of commissioner of

²¹ In view of the health emergency, the *Autorité* has decided to postpone the deadline for eliminating the supply deficit from 2024 to 2029.

²² Article 53 of the Law for Growth and Activity.

justice²³, relatively low and declining margins and a reduction in the scope of the monopoly.

Lawyers to the Courts

27. For different reasons, the picture is also mixed for lawyers to the Courts. While the reform has increased the total workforce in the profession and facilitated women's access to private practice, its effects have been hampered by the limited pool of candidates. In its latest opinion, the *Autorité de la concurrence* made a number of recommendations designed to remove this obstacle to achieving the objective set out in the Law of a gradual increase in the number of offices²⁴.

2.1.3. The future development of the Autorité de la concurrence's actions

28. The latest work by the *Autorité de la concurrence* predicts a rebalancing of supply and demand in the medium term, by 2029, for notaries and commissioners of justice. With this in mind, the *Autorité de la concurrence* could be asked to consider the future of the reform of establishment conditions. The changes envisaged will have to take into account the public interest issues and market failures specific to the sectors concerned.

29. In addition, certain structural changes in the markets could lead the *Autorité de la concurrence* to modify its method for assessing and mapping the need for new professionals. For example, the dematerialisation of exchanges, greatly accelerated by the health emergency, could broaden the relevant geographic markets, leading the *Autorité de la concurrence* to modify the establishment zones. By way of illustration, notaries can now perform most authentic acts remotely.

30. Lastly, despite several recommendations from the *Autorité de la concurrence*, the reform of establishment conditions has not yet been applied in three départements in eastern France, due to specific local features linked to their history. The *Autorité de la concurrence* hopes to be involved in the near future in drawing up a plan to extend the reform to these territories.

2.2. The Autorité de la concurrence's advisory role on setting regulated tariffs

31. The *Autorité de la concurrence* has helped define the main features of the new method used by the government to revise the level of regulated tariffs for six legal professions.

²³ The profession of commissioner of justice is the result of the gradual merger of court bailiffs and judicial auctioneers that began in 2016.

²⁴ Opinion 23-A-03 of 7 April 2023 on the freedom of establishment and recommendations for the creation of counsel offices at the French Administrative Supreme Court (Conseil d'Etat) and the French Supreme Court (Cour de cassation).

2.2.1. The missions entrusted to the Autorité de la concurrence by the Law of 6 August 2015

32. The Law of 6 August 2015 overhauled the regulation of fees for six legal professions²⁵, with the aim of achieving a fairer and more legible fee structure in which fees are set according to a cost-oriented principle.

33. The reform introduced in 2015 provides for mandatory consultation of the *Autorité de la concurrence* on the structure of fees and how they are set. In addition, the *Autorité de la concurrence* can be consulted on any other matter relating to these fees, such as the biennial review of fee levels.

2.2.2. The opinions issued by the Autorité de la concurrence

Recommendations in favour of a "global" approach

34. Since the Law of 6 August 2015, regulated tariffs must take into account the relevant costs of the service rendered and reasonable remuneration. As an exception to these fixed, cost-oriented fees, some fees may be proportional to the underlying compensation (e.g. the value of a property) to contribute to covering relevant costs or reasonable remuneration, within the framework of fee equalisation.

35. In contrast to the "act-by-act"²⁶ method initially envisaged, the *Autorité de la concurrence* has recommended the adoption of a "global" method whereby fees are determined in such a way as to ensure coverage of the relevant costs borne by the members of the profession concerned and generate reasonable remuneration for all the services provided by these professionals. This approach makes up for the lack of detailed data on the volume, type and cost of the procedures performed by professionals. Furthermore, the "global" method encourages professionals to improve their efficiency, insofar as, by taking into account the average costs of the profession, they will be encouraged to increase the margin generated by an individual improvement in production processes.

36. Nevertheless, the *Autorité de la concurrence* considers that this approach can be reconciled with a gradual move towards more individualised pricing for each service, taking into account the costs inherent in these services and the reasonable remuneration attached to them. It therefore recommends that work be initiated to measure costs²⁷. In addition, this work should make it possible to assess in greater detail the percentage of monopoly activities in the total costs borne by professionals.

37. In 2020, the government decided on a method based on the overall profitability of the professions concerned. Within this framework, fees are set according to a target average (operating) income rate (set by decree every two years), itself determined on the basis of a reference rate (set by decree in the French Administrative Supreme Court (Conseil d'Etat).

²⁵ The professions affected are notaries, commissioners of justice, commercial court registrars, court-appointed administrators, court-appointed liquidators, notaries and lawyers for certain activities.

²⁶ Fees are set based on the costs actually incurred by professionals for each procedure performed.

²⁷ Since 2018, professionals have been required to send a set of economic data (turnover, earnings, etc.) to the *Autorité* and the administrations in charge of tariff regulation on an annual basis. At present, the data does not include any information on the cost of providing services.

Recommendations for greater discount flexibility

38. The Law of 6 August 2015 increased the possibilities for discounts, which were generally outlawed under the previous system. On a number of occasions, the *Autorité de la concurrence* has come out in favour of increasing the new possibilities for discounts, in order to instil greater competition between professionals. Following the recommendations of the *Autorité de la concurrence*, the maximum discount rate stipulated in the reform has been doubled (from 10 % to 20 %), and the threshold above which a discount is authorised has been lowered (from €150,000 to €100,000).

39. Nevertheless, the *Autorité de la concurrence* regrets that the scope of the larger discounts that can be applied for certain services (up to 40% of remuneration or total negotiability) is too restricted.

Recommendations for reducing fee surcharges in French overseas territories

40. The reform initiated by the Law of 6 August 2015 was an opportunity to review the fee surcharges applied in the overseas départements. It seemed paradoxical to seek to align fees more closely with the costs of performing procedures, while at the same time advocating the use of flat-rate surcharges (between 25% and 40%) that were completely disconnected from the actual costs and generated particularly high average profitability rates.

41. In line with the recommendations of the *Autorité de la concurrence*, surcharge rates are now set so that they bring the average (operating) income rate of professionals based in these départements and local and regional public authorities closer to the average (operating) income rate target set for the profession as a whole.

The results of tariff regulation reform

42. Over the 2016-2024 period, the implementation of the new tariff regulation led to a reduction in rates, ranging from -1 % to -14 % depending on the economic situation of the professions concerned. These disparities in tariff decreases illustrate the disparities in economic situations between professions. As the new method is based on the overall profitability of the professions concerned, those that experience a drop in business, for example, are not subject to the same rate increases as others.

43. In addition, the availability of data on professional activity remains a challenge for improving the new pricing regulation.

2.2.3. The future development of the *Autorité de la concurrence*'s actions

44. While the *Autorité de la concurrence* has contributed to the development of the new method for setting fees for the regulated legal professions and will continue to do so, it has never yet been consulted on the implementation of this method, i.e. on the revision of fees.

2.3. The legal action of the *Autorité de la concurrence***2.3.1. In the notarial sector**

45. The Law of 6 August 2015 liberalised the notary fees applicable to property negotiation services insofar as they are carried out in competition with other professionals, notably estate agents. In response to this reform, a group of notaries' offices decided to adopt a common fee.

46. In 2019, the *Autorité de la concurrence* fined this organisation to the tune of €250,000²⁸. In addition, the local professional body took part in the cartel and was fined €45,000. The *Autorité de la concurrence* considered as an aggravating factor the fact that the anticompetitive practice took place in a context of partial fee liberalisation in a sector where competition is severely limited by regulation.

2.3.2. In the court bailiff sector

47. In 2019 and 2022²⁹, the *Autorité de la concurrence* issued three decisions regarding anticompetitive practices implemented by court bailiffs (now commissioners of justice) in the Ile-de-France region through joint structures used to facilitate the service of documents to litigants. Membership of these structures gives members a significant competitive advantage that cannot be enjoyed by any other means.

48. Following the adoption of the law of 6 August 2015, these structures adopted non-objective, non-transparent and discriminatory membership conditions, most often to the detriment of new market entrants. For example, they included a prohibitively high entry fee.

49. The *Autorité de la concurrence* has fined several players a total of around €1.5 million. As an aggravating factor, it noted that the infringement was unequivocally aimed at thwarting the legislator's intention to encourage the creation of new offices.

3. Conclusion

This contribution has focused on the *Autorité de la concurrence*'s involvement in the regulation of the regulated legal professions, which has lowered barriers to entry and fostered greater competitive emulation in this sector. In addition to this specific mission under the Law for Growth and Activity, the *Autorité de la concurrence*'s scope of action is not limited to the legal professions but extends to all types of regulated professions, whatever their nature, provided that they carry out an economic activity within the meaning of competition law. In terms of contentious decisions, the *Autorité* has, for example, fined anticompetitive practices implemented by the French Architects' Association (Ordre des architectes)³⁰ and the French Dental Surgeons' Association (Ordre national des chirurgiens-dentistes)³¹. On the consultative front, as with the legal professions³², the *Autorité* had the opportunity to issue an opinion on the ethical rules applicable to six healthcare professions (doctors, dental surgeons, midwives, nurses, masseur-physiotherapists and chiropractors)³³ et pédicures podologues³⁴.

²⁸ Decision 19-D-12 of 24 June 2019.

²⁹ Decisions 19-D-13 of 24 June 2019, 22-D-01 and 22-D-02 of 13 January 2022.

³⁰ Decision 19-D-19 of 30 September 2019 regarding practices implemented in the sector of architect services.

³¹ Decision 20-D-17 of 12 November 2020 regarding practices implemented in the sector of dental care surgery.

³² Opinions 23-A-02 of 10 February 2023 and 23-A-19 of 1 December 2023 on draft decrees on the codes of professional conduct for lawyers to the Courts, commissioners of justice and notaries.

³³ Opinions 19-A-18 of 31 December 2019 and 22-A-09 of 22 November 2022 on several draft decrees amending the codes of ethics of certain healthcare professions.

³⁴ Avis n° 19-A-18 du 31 décembre 2019 et n° 22-A-09 du 22 novembre 2022 relatif à plusieurs projets de décret portant modification des codes de déontologie de certaines professions de santé.