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Introduction

1. The health sector is of particular importance to the French economy and to social cohesion. It is characterised by a high degree of regulation, at both European and national level, affecting all stakeholders and all products and services placed on the market.

2. The sector is marked by profound and constant changes, in particular as regards the characteristics and organisation of the provision of care. In a context of budgetary constraints, maintaining a healthcare network as close as possible to patients, throughout the country, and the need to optimise the functioning of the public healthcare network, are major objectives guiding the public authorities with a view to organising and developing new missions for care providers. In addition, digital technologies also offer the possibility of new services and forms of organisation.

3. It is in this context that the Autorité de la concurrence (hereinafter 'the Autorité') has, in particular, issued sectoral opinions on the competitive functioning of the retail distribution of medicinal products[1]. The Autorité has thus recalled the need to put competition policy at the service of innovation and value creation, in particular upstream in the pharmaceutical supply chain. It has also come out in favour of strengthening the purchasing power of intermediaries in the distribution of medicinal products and of a gradual adaptation of the functioning of the downstream market to new methods of marketing and to new consumer expectations. These include the development of the online sale of medicinal products and the broadening of the points of distribution for certain health products outside the pharmacy, which would be made possible by a controlled relaxation of the pharmacy monopoly. Lastly, finding that the legal framework applicable to the sector was liable to curb the modernisation of the medicinal products distribution network, the Autorité called for regulatory relaxations, while respecting public-health imperatives.

4. The Autorité has also expressed its views on several occasions on changes to the framework governing the practice of various health professions, and in particular on the rules of professional conduct applicable to them. While general-interest objectives may justify the introduction of restrictive regulation, such regulation must be appropriate and proportionate to the market failures at issue, so as not to lead ultimately to a situation that would be less beneficial for consumers, or less economically efficient, than the one that would prevail in the absence of regulation.

5. This contribution thus provides an opportunity to present the Autorité's advisory activity in the health sector, and its in-depth reflection on the issues raised by the interaction between the regulatory framework and competition concerns.

1. The online sale of medicinal products

6. In its Opinion No 19-A-08 of 4 April 2019, the Autorité noted that the regulatory framework established in France for the online sale of medicinal products for human use is

[1] Opinion No 13-A-24 of 19 December 2013 regarding the functioning of competition in the sector for the distribution of medicinal products for human use in private practices; Opinion No 19-A-08 of 4 April 2019 regarding the sector of medicinal products distribution and chemical pathology field.

one of the strictest in the European Union. Such sales are limited to over-the-counter medicinal products, and reserved for websites attached to a duly established physical pharmacy, thereby excluding *de facto* the *pure players*.

7. The Autorité was called upon to give its view on this regulatory framework as early as the transposition in France of the Directive of 8 June 2011[2] requiring Member States to permit the distance selling to the public of such medicinal products. It was very much in favour of authorising the online sale of medicinal products, since this form of distribution is generally a vector of innovation in terms of services, diversification of supply and cost reduction, resulting in lower prices. Aware of the specific nature of medicinal products and of the need to ensure patient safety, the Autorité considered that the regime established in France made it possible to ensure a high level of safety in the online distribution of medicinal products and to keep out falsified products[3]. Indeed, the fact that this activity is reserved to pharmacists alone and that the rules governing sales in pharmacies apply to it – including ongoing supervision by the pharmacist, advice to patients and control of product traceability – already guarantees an adequate level of safety, the protection of public health and patient confidence[4]. While it is important to avoid the risks that the trade in medicinal products may pose to patients, any restriction of competition must be justified by public-health considerations and proportionate to that objective. In its Opinion No 13-A-24 of December 2013, the Autorité thus stressed the need to limit, as far as possible, regulatory restrictions on the development of online trade[5].

8. Consulted on the draft texts setting out the procedures for carrying out this activity, the Autorité systematically identified several provisions considered too restrictive, disproportionate to the objective of protecting public health and hindering its development. It thus issued unfavourable opinions on the draft texts concerning the rules on good practice in the dispensing of medicinal products and the technical rules applicable to the websites used for that purpose, and proposed amendments. In its Opinion No 13-A-12 of April 2013 and Opinion No 16-A-09 of April 2016, the Autorité considered that the accumulation of restrictive provisions led to curbing any commercial initiative in terms of prices, product ranges and new services, the proposed framework removing any incentive to market medicinal products online, for both patients and pharmacists[6].

9. Some of its recommendations were reiterated in its Opinion No 19-A-08, in which it examined in detail the legal scope of the online sale of medicinal products in France and

[2] Directive 2011/62/EU of the European Parliament and of the Council of 8 June 2011 amending Directive 2001/83/EC on the Community code relating to medicinal products for human use, as regards the prevention of the entry into the legal supply chain of falsified medicinal products.

[3] Opinion No 12-A-20 of 18 September 2012 on the competitive operation of e-commerce; Opinion No 12-A-23 of 13 December 2012 on a draft order and a draft decree transposing Directive 2011/62/EU of the European Parliament and of the Council of 8 June 2011 amending Directive 2001/83/EC on the Community code relating to medicinal products for human use, as regards the prevention of the entry into the legal supply chain of falsified medicinal products, paragraph 26; Opinion No 16-A-09 of 26 April 2016 regarding two draft orders on the dispensation of medicinal products by electronic means, paragraphs 49 and 50.

[4] Opinion No 13-A-12 of 10 April 2013 on a draft resolution regarding good practice in the dispensation of medicinal products by electronic means, paragraphs 100 et seq.

[5] Opinion No 13-A-24 of 19 December 2013, cited above, paragraph 686; and No 16-A-09 of 26 April 2016, cited above, paragraphs 50 and 51.

[6] Opinion No 13-A-12 of 10 April 2013, cited above, paragraphs 189 et seq.; Opinion No 16-A-09 of 26 April 2016, cited above, paragraphs 91 et seq.

in the other Member States, and found an activity which, in France, remains underdeveloped, owing in particular to the regulatory restrictions in force, including:

- the strict regulation of advertising and of the communication tools of pharmacies and websites, preventing pharmacists from making their services and activities known;
- the requirement for storage facilities to be located close to the pharmacy, which may hinder online sales activity, for want of available and/or cheaper premises;
- the impossibility for pharmacies to consolidate their online offering within a common website or to use platforms connecting them with patients, preventing any pooling of resources;
- the prohibition on entrusting the design and maintenance of the website to an undertaking that produces or markets health products, even though certain groups of pharmacists could use their expertise to offer such services, facilitating the management of this activity;
- the absence of provisions on the regime applicable to operators established in other Member States, a source of legal uncertainty and of a potential competitive disadvantage for French players, in the event that the national rules were not applied to all operators present on the French territory.

10. In that same opinion, the Autorité also noted the existence of a procedure for authorising the creation of a website that was too long or complex, and a source of regional disparities, in the absence of harmonisation at national level[7]. Consulted on the draft texts aimed at introducing a declaratory regime and harmonising the applicable procedure, the Autorité noted, in its Opinion No 24-A-02 of May 2024[8], a step towards a more flexible regime liable to facilitate the carrying out of this activity. It nevertheless reiterated its earlier recommendations, regretting that they had not given rise to any concrete implementation or amendments. Indeed, only one of its 2019 recommendations was heeded, the prohibition on paid referencing and paid price-comparison tools having been repealed following a clarification in the case law[9].

2. The retail distribution chain for medicinal products

11. The medicinal products distribution chain involves a large number of players. In addition to the regulation by European Union law, national provisions define the respective status, as well as the rights and obligations, of each of them.

12. In its Opinions No 13-A-24 and No 19-A-08, the Autorité carefully studied the functioning of this distribution chain, in particular at its intermediate stage, characterised by a large number of heterogeneous players, and the use of different distribution channels

[7] Opinion of the Autorité No 19-A-08 of 4 April 2019, cited above, paragraph 195 and Annex II, Summary of the public consultation of stakeholders in the sector for the retail distribution of medicinal products, page 31.

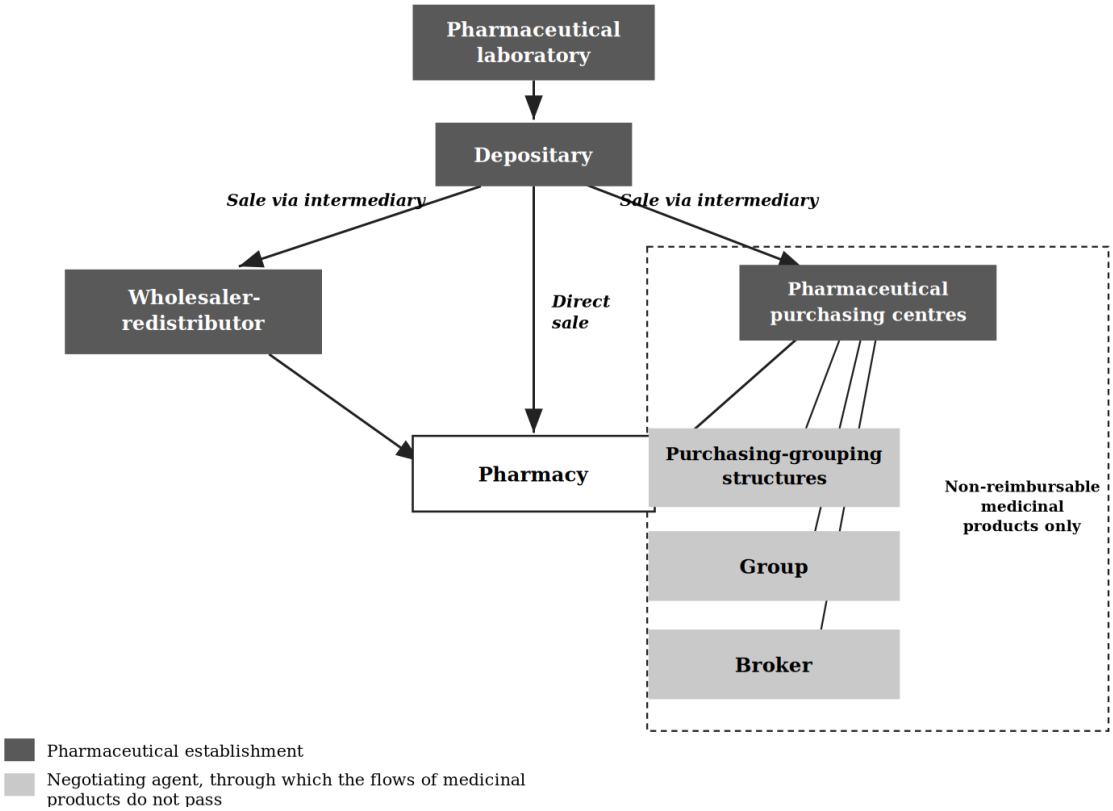
[8] Opinion No 24-A-02 of 23 May 2024 on draft decrees and orders relating to the regime of prior declaration of an activity and of an e-commerce website for medicinal products.

[9] The prohibition on paid referencing and paid price-comparison tools was repealed following Decision No 440208 handed down by the Conseil d'État on 17 March 2021, and the judgment of the Court of Justice of 1 October 2020, *Shop-Apotheke*, Case C-649/18.

depending on the characteristics of the medicinal product concerned – reimbursable or not, originator/generic/other.

Figure 1. Organisation of the retail distribution chain for medicinal products

Figure 20: Organisation of the retail distribution chain for medicinal products



13. The Autorité noted that competition authorities tend to take a favourable view of short marketing channels, since intermediaries often capture part of the margin to the detriment of other players and of the end-consumer. However, the intermediary may prove indispensable to the functioning of the sector, such as the wholesaler-redistributor in France, who ensures a regular and rapid supply to the pharmacy network[10].

14. In its Opinion No 19-A-08, the Autorité highlighted the economic difficulties specific to the sector for the wholesale distribution of medicinal products through community pharmacies, liable in particular to deprive intermediaries of sufficient bargaining power vis-à-vis the other players in the chain. The low margin levels thus make these players particularly vulnerable and do not enable them to offset their costs. Indeed, these wholesalers are subject to public service obligations, relating to their stocks and their delivery times, which entail undeniable but hard-to-quantify costs.

15. The Autorité identified, among the factors contributing to this situation, the structure of their regulated remuneration, which does not take into account the costs they bear, the capture of activity flows by the direct-sales channel, and developments in the generics market. Indeed, wholesalers are directly affected by the contraction of the market for reimbursable medicinal products, on which their profitability mainly rests, brought

[10] Opinion No 13-A-24 of 19 December 2013, cited above, paragraphs 355 et seq., and 618 et seq.

about by the policy of controlling health expenditure and promoting generics. In addition, owing to the weight of the fixed costs associated with their public service obligations, their business model depends heavily on their volume of activity, since the amortisation of their costs and their profitability require a sufficiently high number of deliveries. Any loss of activity to direct sales is therefore detrimental to them[11].

16. To cope with their deteriorated economic situation, wholesalers have implemented adaptation strategies, the impact of which on their effective margin was analysed by the Autorité. Thus, on certain markets, including that for generics, they sought to recover sales flows through considerable financial efforts, in particular by forgoing their regulated margin, although it is already low. They also diversified their activities in order to reduce their dependence on reimbursable medicinal products, given the weak growth prospects of this segment and the inadequacy of their margins. However, at the date of its 2019 opinion, the Autorité found that these strategies, which may have stabilised the situation, had not made it possible to restore the profitability of the wholesale distribution sector[12].

17. Lastly, the Autorité found that there was an imbalance between the players in the distribution chain, benefiting those upstream and downstream at the expense of intermediaries, but also among intermediaries themselves, with wholesalers suffering a competitive disadvantage compared with other intermediaries, linked to their public service obligations. Thus, despite their economic weight, in a relatively concentrated wholesale distribution sector, the bargaining power of wholesalers vis-à-vis their suppliers is insufficient to ensure the profitability of their activities[13].

18. To address this situation, the Autorité suggested a revision of the level of wholesalers' regulated remuneration. At the very least, a review of the rules governing it, as regards the distribution of reimbursable medicinal products, could be envisaged, since, with the market structure unchanged, it does not enable them to meet the logistical costs of their activity. The distribution margin could thus be gradually dissociated from the price of medicinal products, following a logic of revision similar to that of the regulated margin of community pharmacists[14].

19. Since the Autorité's opinion, the rules governing wholesalers' remuneration have not undergone any major changes. Support measures have nevertheless been introduced, including the raising of the maximum amount of the gross margin excluding tax as well as of the capped margin per pack, as regards reimbursable medicinal products, and the introduction of a flat-rate amount per unit of packaging for products requiring cold storage before opening. In addition, the rate of the first band of the tax on the wholesale sale of proprietary medicinal products, the basis of which corresponds to the turnover excluding tax achieved with pharmacies, was lowered twice[15].

[11] Opinion No 19-A-08 of 4 April 2019, cited above, paragraphs 1046 et seq. and 1069 et seq.

[12] Opinion No 19-A-08 of 4 April 2019, cited above, paragraphs 1081 et seq.

[13] Opinion No 19-A-08 of 4 April 2019, cited above, paragraphs 1129 et seq., 1143 et seq., and 1149 et seq.

[14] Opinion No 19-A-08 of 4 April 2019, cited above, paragraphs 1153 et seq.

[15] Articles L. 138-1 and L. 138-2 of the Social Security Code.

3. The rules on the ownership of the capital of pharmacies

20. In France, the sale of medicinal products for human use to the end-consumer is characterised by a dual monopoly: that of the pharmacy (the pharmacy monopoly) and that of the pharmacist (the pharmacist's monopoly). Thus, only a pharmacist may dispense medicinal products to a patient, and may do so only within a pharmacy, hence the predominant role of pharmacies downstream in the distribution chain. In its Opinion No 19-A-08, the Autorité set out in detail the economic and financial situation of pharmacies, and their capacity to adapt to the economic challenges of the sector. Beyond changes to their regulated remuneration, a modernisation of their activity appeared necessary to the Autorité, in particular through a controlled opening of the capital of pharmacies, as in other European countries[16]. However, no significant measure has been adopted to that effect since that opinion.

21. In France, the legislative framework limits the ownership and operation of pharmacies. The Public Health Code[17] requires the pharmacist to own the pharmacy of which they are the holder, and only one such pharmacy, whatever the legal structure used. As regards *sociétés d'exercice libéral* (hereinafter 'SEL'), the most widespread form in the profession, the majority of the voting rights and of the capital must be held by natural persons practising therein, while the remainder may be held by a limited list of persons: persons carrying on the activity of pharmacist, a *société de participations financières de professions libérales* of pharmacists (hereinafter 'SPFPL') or, for a limited period, former partners or the successors in title of the foregoing persons. In addition, a pharmacy-owning pharmacist may hold a majority stake in the SEL in which they practise, but also minority stakes in four other SELs. An SEL may, for its part, hold direct and indirect stakes in four SELs, while SPFPLs may hold such stakes in three SELs. Lastly, a person carrying on a liberal health profession other than that of community pharmacist is prohibited from holding, directly or indirectly, shares representing all or part of the share capital of a pharmacists' SEL.

22. The Autorité noted the highly restrictive nature of this legal framework, which no longer seemed suited to the challenges of the profession[18]: it severely limits the capacity of pharmacies to access sources of financing, and does not provide the means required for their modernisation. While SELs and SPFPLs offer numerous advantages for pharmacists (the possibility for outside persons to provide capital, to pool financial resources and to benefit from synergies between several pharmacies), the arrangements associated with these structures are very constrained. This is the case with the restricted range of persons authorised to access the capital of pharmacies, or with the limitation on the number of companies in which holdings are authorised.

23. Failing the ability of pharmacies to meet their financing needs through bank loans and own funds alone, alternative financing through pharmacy groups and bonds convertible into shares (hereinafter 'OCA') does not appear fully satisfactory. The strategy of certain investment funds, which relies on financial arrangements enabling them to enter the capital of groups and to subscribe to OCAs issued by pharmacies, paves the way for future

[16] Opinion No 19-A-08 of 4 April 2019, cited above, paragraphs 22 et seq., 112 et seq., and 670 et seq.

[17] Articles L. 5125-8 et seq. and R. 5125-14 et seq. of the CSP, in their version in force on the date of publication of Opinion No 19-A-18.

[18] Opinion No 19-A-08 of 4 April 2019, cited above, paragraphs 718 et seq.

ownership of the latter's capital, in the event of a relaxation of the regulations[19]. Since certain players fear that such a strategy, if insufficiently regulated, might pose a risk to the professional independence of the profession, the Autorité examined what safeguards could be provided to accompany this necessary relaxation of the regulations.

24. Thus, according to the Autorité, an opening of the capital of pharmacies to non-pharmacists should form part of a policy of replacing the pharmacy monopoly with the pharmacist's monopoly. Among the improvements expected from such a measure, the Autorité identified financial, operational and structural advantages: the improvement of pharmacies' cash flow, access to new sources of financing, the creation of pharmacy chains – a source of economies of scale – greater weight in negotiations with suppliers, and the emergence of vertically integrated players in the distribution of medicinal products. The opening of the capital of pharmacies could also benefit territorial coverage[20].

25. Lastly, recalling that medicinal products are not goods like any other, the Autorité stressed that it would be essential to regulate such an opening of capital so that it meets public-health requirements[21]. It would be necessary to ensure that pharmacists retain the ability to take important decisions alone, and to advise patients independently, in compliance with the rules of professional conduct. Other rules, in particular to avoid conflicts of interest, could also be established: reserving the majority of voting rights for pharmacists practising within the SEL, or prohibiting commercial targets for pharmacists employed by pharmacy chains, as regards the sale of medicinal products.

26. As regards the opening of capital, the Autorité examined four scenarios, ranging from increasing the number of minority or majority holdings of pharmacists, to opening up a minority share of the capital to minority outside investors, or even to capital held mostly by investors other than pharmacists[22].

4. The rules of professional conduct applicable to the health professions

27. Pursuant to Article L. 462-2 of the French Commercial Code, the Autorité must be consulted by the government on draft reforms of the rules of professional conduct applicable to the health professions, and on that basis gives its view on their compatibility with the competition rules.

28. While it is justified to provide for such rules in order to guarantee the safety and quality of procedures, and to govern the conduct of health professionals towards users, those rules may not establish restrictions of competition or of the freedom to conduct business that are not necessary, or not proportionate to the general-interest objectives pursued. The particular nature of the health professions, which justifies their regulation, does not strip their activity of any economic dimension, nor of any place within the scope of the competition rules, as the Autorité has regularly stressed[23].

[19] Opinion No 19-A-08 of 4 April 2019, cited above, paragraphs 735 et seq. and 756 et seq.

[20] Opinion No 19-A-08 of 4 April 2019, cited above, paragraphs 766 et seq. and 781 et seq.

[21] Opinion No 19-A-08 of 4 April 2019, cited above, paragraphs 790 et seq.

[22] Opinion No 19-A-08 of 4 April 2019, cited above, paragraphs 799 et seq.

[23] Opinion No 19-A-18 of 31 December 2019 regarding several draft decrees amending the codes of ethics of certain healthcare professions, paragraphs 37 et seq.

4.1. The rules on advertising and communication by health professionals

29. As regards the rules of professional conduct relating to advertising and communication by health professionals, the Autorité indicated that they are liable to reduce the degree of competition. Indeed, they increase the cost, for consumers, of searching for information on services, their quality and their price, and prevent new providers from making themselves known. The Autorité also indicated that any resulting restrictions of competition should be assessed in light of the principle of proportionality[24].

30. The Autorité's most recent opinions in this area were issued in a particular context, linked in particular to European case law favourable to the liberalisation of communication[25], and to a study published by the Conseil d'État on 3 May 2018 on the '*Rules applicable to health professionals as regards information and advertising*', in which it called for a reform of the rules of professional conduct[26].

31. As regards pharmacists, in two opinions, the Autorité was critical of the applicable rules of professional conduct, in particular as regards advertising. In Opinion No 17-A-10 of June 2017[27], the Autorité had noted that, despite commendable progress, certain rules were restrictive of competition because they were too imprecise and open to interpretation, or excessively general, creating an uncertainty liable to inhibit professionals' initiatives and thus to curb the competitive process. The Autorité also noted redundant or even contradictory provisions within the pharmacists' code of professional conduct. Lastly, certain provisions were, in substance, restrictive of competition and not justified by public-health imperatives (for example, the general prohibition on any commercial offer or promotion). The Autorité recommended using precise, unambiguous and consistent wording, as well as adapting or even deleting certain rules. A similar analysis was carried out in Opinion No 25-A-08 of June 2025[28], which concluded that certain provisions needed to be relaxed, clarified or deleted.

32. The Autorité has issued opinions on communication by numerous other medical and paramedical professions (doctors, midwives, dental surgeons, physiotherapists, nurses, chiropodists-podiatrists, etc.). In particular, in Opinion No 19-A-18 of December 2019[29],

[24] Opinion No 19-A-18 of 31 December 2019, cited above, paragraph 62.

[25] Judgment of the Court of Justice, 4 May 2017, *Luc Vanderborght*, Case C-339/15. Hearing a reference for a preliminary ruling concerning the Belgian legislation applicable to dental surgeons, the Court held, in particular, that national legislation concerning advertising in the field of dental care was contrary to Directive 2000/31/EC on electronic commerce, as well as to Article 56 of the Treaty on the Functioning of the European Union relating to the freedom to provide services, in so far as it led to a general and absolute prohibition on the use, by health professionals, of any advertising relating to care services, whether in written or electronic form. See also the order of the Court of Justice of 23 October 2018, C-296/18, *RG and SELARL, cabinet dentaire du docteur RG*.

[26] https://www.conseil-etat.fr/publications-colloques/etudes/etudes-a-la-demande-du-gouvernement/regles-applicables-aux-professionnels-de-sante-en-matiere-d-information-et-de-publicite (in French)

[27] Opinion No 17-A-10 of 16 June 2017 regarding a draft decree establishing the code of professional conduct for pharmacists and amending the Public Health Code.

[28] Opinion No 25-A-08 of 2 June 2025 on a draft decree amending the code of professional conduct for pharmacists and other provisions of the Public Health Code, paragraph 47.

[29] Opinion No 19-A-18 of 31 December 2019, cited above.

specifically concerning the reform of the communication rules of these six professions, the Autorité issued a '*highly reserved*' opinion on the draft reform, for several reasons.

33. First, the rules applicable as regards advertising differed, sometimes significantly, between the professions concerned, without this appearing objectively justified by the specific features of one or the other. This was illustrated '*by the heterogeneity in the degree of precision in the definition of the applicable rules, with some texts setting out, for example, in an almost exhaustive manner the content of various obligations (information to appear on professional nameplates, on prescriptions, etc.), while others merely lay down the broad principles and refer, for further detail, to the charters or recommendations issued by the professional body*'[30].

34. Second, as with the rules applicable to pharmacists, the Autorité regretted a lack of clarity and legibility in the scheme submitted for its opinion. For example, the term 'commerce' and its derivatives, used to prohibit the practice of the profession as a commercial activity, were not explained[31]. The Autorité concluded that '*these imprecisions, this lack of consistency and this heterogeneity clearly place health professionals in a situation of legal uncertainty, since they risk being prosecuted and sanctioned by the professional bodies on the basis of rules that are uncertain and open to interpretation*'[32] and recommended amending the applicable rules, '*by making them more legible, by structuring the drafting, by clarifying the terms used* [and] *by harmonising the nature and extent of health professionals' obligations*'[33].

35. Third, the Autorité noted the existence of rules that constituted restrictions of competition. For example, certain rules of professional conduct prohibit practitioners from using paid-referencing techniques. Yet this prohibition deprives the health professional of a means of promotion and advertising, in particular *via* their website on which their activity and skills are presented, all the more so since certain bodies are not subject to it (in particular private clinics and medical centres)[34]. The same applies to restrictions concerning the professionals' establishment, and relating to the limitation of the number of advertisements they may publish, to the obligation to submit the proposed communication beforehand to the departmental council of the professional body concerned, to the limitation of the medium of dissemination, of the nature of the information disseminated or of the duration of the communication. The Autorité had concluded that these provisions '*unquestionably limit the freedom of establishment of practitioners wishing to make themselves known to the local patient base*', whereas communication would help alleviate the shortage of practitioners in certain geographical areas, improve patient information and facilitate access to healthcare. The Autorité thus recommended significantly relaxing these various rules[35].

[30] Opinion No 19-A-18 of 31 December 2019, cited above, paragraph 52.

[31] See also Opinion No 22-A-09 of 22 November 2022 on a draft decree reforming the code of professional conduct for midwives, paragraphs 66 et seq.

[32] Opinion No 19-A-18 of 31 December 2019, cited above, paragraph 59.

[33] Opinion No 19-A-18 of 31 December 2019, cited above, paragraph 61.

[34] Opinion No 22-A-09 of 22 November 2022, cited above, paragraphs 54 et seq.

[35] Opinion No 19-A-18 of 31 December 2019, cited above, paragraphs 88 et seq.

4.2. The conditions governing the practice of health professionals

36. As regards the rules of professional conduct concerning, more generally, the conditions governing the practice of health professionals, the Autorité also came out on numerous occasions in favour of more explicit wording, guaranteeing a degree of legal certainty for health professionals, or has recommended the deletion of rules constituting unjustified restrictions of competition. For example, the following provisions have been targeted:

- those prohibiting professionals from lowering their fees, which appears all the more problematic where the prohibition is associated with imprecise notions such as '*tact and moderation*'[36];
- those prohibiting establishment after standing in for a colleague, or where a professional is already established in a building, by means of a non-compete obligation[37];
- those limiting the number of practices or secondary practices per professional[38].

37. It will be recalled that the Autorité has already sanctioned an anticompetitive agreement by professional bodies whose disciplinary chambers had relied on professional-conduct obligations to bring proceedings against practitioners. For example, boycott practices by the National Council of the Order of Dental Surgeons and several departmental councils of the Order of Dental Surgeons were targeted. These practices, some of which were based on rules of professional conduct requiring fees to be set with '*tact and moderation*' and prohibiting the diversion of clientele, were aimed in particular at a dental care network based on partnerships signed with dental surgeons, comprising reciprocal commitments such as capped care fees and the referral of patients who so requested to the health professionals belonging to the network[39].

38. The recommendations made by the Autorité as regards the rules of professional conduct are regularly taken taken up. In particular, most of those set out in its Opinion No 19-A-18 were followed, in particular as regards the harmonisation and simplification of the

[36] Opinion No 25-A-08 of 2 June 2025, cited above, paragraphs 48 et seq.; Opinion No 19-A-18 of 31 December 2019, cited above, paragraphs 91 et seq.; Opinion No 17-A-10 of 16 June 2017, cited above, paragraphs 69 et seq.; Opinion No 16-A-11 of 11 May 2016 on a draft decree establishing the code of professional conduct for nurses, paragraphs 127 et seq.; Opinion No 12-A-07 of 1 March 2012 on a draft decree establishing the code of professional conduct for chiropodists-podiatrists, paragraphs 74 et seq.

[37] Opinion No 25-A-08 of 2 June 2025, cited above, paragraphs 52 et seq.; Opinion No 22-A-09 of 22 November 2022, cited above, paragraphs 46 et seq.; Opinion No 17-A-10 of 16 June 2017, cited above, paragraphs 77 et seq.; Opinion No 16-A-11 of 11 May 2016, cited above, paragraphs 151 et seq.; Opinion No 12-A-07 of 1 March 2012, cited above, paragraphs 120 et seq.; Opinion No 08-A-15 of 29 July 2008 on the draft decree establishing the code of professional conduct for physiotherapists, paragraphs 58 et seq.

[38] Opinion No 22-A-09 of 22 November 2022, cited above, paragraphs 48 et seq.; Opinion No 12-A-07 of 1 March 2012, cited above, paragraphs 88 et seq.

[39] Decision No 20-D-17 of 12 November 2020 regarding practices implemented in the sector of dental care surgery (appeal dismissed by decision of the Paris Court of Appeal, 14 September 2023, No RG 20/17860; appeal on a point of law dismissed by decision of the Court of Cassation, 15 October 2025, appeal No 23-21.370).

rules, the deletion of the general prohibition on doctors using any commercial information process, and the enshrining of a principle of free communication with the public.

39. Furthermore, Decree No 2026-156 of 3 March 2026[40], the draft of which had been submitted to the Autorité for its opinion[41], also took up the vast majority of its recommendations, in particular as regards the harmonisation of the legal framework applicable to pharmacists with that of the other health professions as regards information, the amendment and deletion of certain provisions relating to advertising, and the deletion of the provisions relating to the amount of fees and charges as well as those concerning non-competition.

[40] Decree No 2026-156 of 3 March 2026 amending the code of professional conduct for pharmacists and other provisions of the Public Health Code, Official Journal of the French Republic of 5 March 2026.

[41] Opinion No 25-A-08 of 2 June 2025, cited above.