



AUTORITÉ DE LA
CONCURRENCE
GRAND-DUCHÉ DE LUXEMBOURG

COMPETITION

ANNUAL REPORT 2024



III. COMPETITION

Competition law contributes to the proper functioning of markets by ensuring **free competition**. In a competitive market, companies are encouraged to constantly innovate to offer consumers the best possible products and services at the most advantageous prices.

The Competition Authority monitors undertakings' compliance with the rules of free competition and can penalise anti-competitive practices, such as abuse of a dominant position or cartels.

In this context, in 2024, the Authority ensured:

- analysis and consultation missions (opinions and sector inquiries);
- the investigation and sanctioning of anti-competitive practices;
- certain merger control tasks via referrals to the European Commission;
- the representation of Luxembourg within the European Competition Network; as well as
- other forms of cooperation at European and international level.

In the field of competition law, the Authority supervises **all the undertakings that make up Luxembourg's economic fabric**, namely:



around **42 000 companies in the non-financial market economy**¹²



around **1,500 companies in the financial and insurance sectors**¹³ operating in Luxembourg



all **foreign companies producing goods and services** with economic activities in Luxembourg

COMPETITION DEPARTMENT

In order to ensure continuity on competition matters while adapting its resources to its new tasks, particularly regarding the regulation of online platforms, the Authority has continued to reorganise its teams to create a fully-fledged 'Competition Department', separate from its other departments.

As at 31 December, the service consisted of a legal advisor responsible for the department, and five investigators, including two lawyers and three economists.

¹² STATEC – Luxembourg in 2024 figures (latest data available in 2021)
<https://statistiques.public.lu/en/actualites/2024/luxembourg-en-chiffres-2024.html>

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ANALYSIS AND CONSULTATION ACTIVITIES

SECTOR INQUIRIES

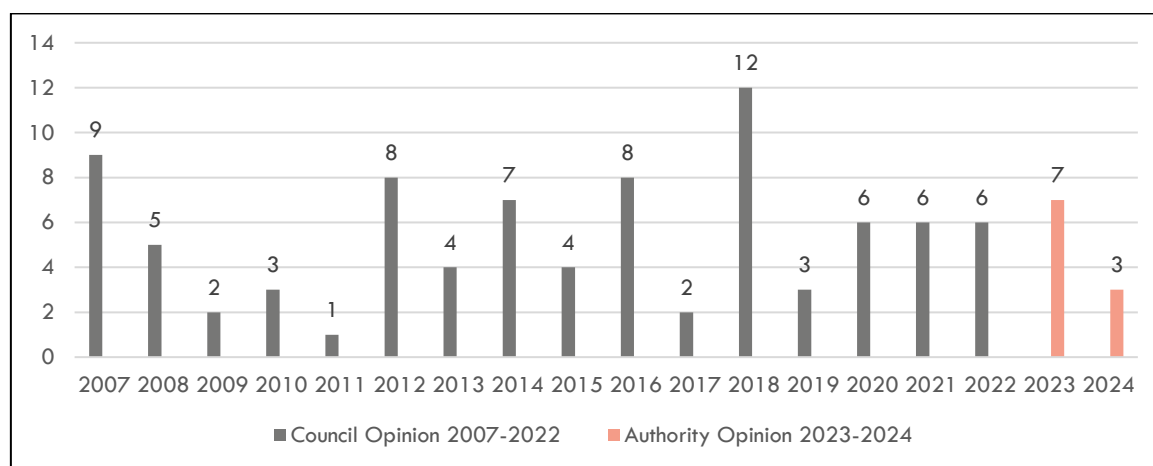
Under Article 65 of the Competition Act, the Authority may conduct an investigation into a particular sector of the economy or a particular type of agreement in different sectors where trade developments, price rigidity or other circumstances suggest that competition may be restricted or distorted. Following the investigation, the Authority may publish a report setting out its findings.

For reasons of confidentiality, the present report does not mention ongoing sector inquiries.

LEGAL OPINIONS ON MATTERS RELATING TO COMPETITION

Under Article 64 of the Competition Act, the Authority may issue opinions, on its own initiative or at the request of a Minister, on any matter relating to competition.

In 2024, the Authority issued opinions on various bills and draft regulations.



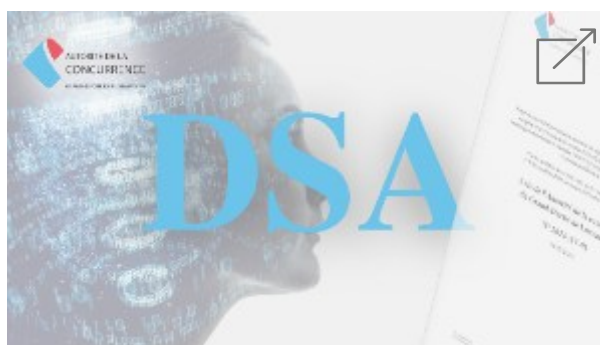
NUMBER OF OPINIONS ADOPTED BY THE COUNCIL/AUTHORITY BETWEEN 2007 AND 2024

Digital Services Act Implementation Bill

In its [opinion of 16 February 2024 on Bill 8309](#) implementing Regulation (EU) 2022/2065 on Digital Services (DSA), the Authority agreed with the bill subject to some procedural clarifications.

The Authority welcomed its designation as Digital Services Coordinator, which it considers relevant given its expertise in the supervision of digital market gatekeepers (Digital Markets Act - DMA), the protection of businesses using online platforms (Platform to Business - P2B) and competition law.

However, the Authority made proposals to clarify and precise the procedure for handling complaints and the conditions under which action may be taken. The Authority also reiterated the need to have the appropriate human and technical resources to fulfil its missions as Digital Services Coordinator.



Draft Grand-Ducal Regulation on public procurement

In its [opinion of 17 April 2024 on the draft Grand-Ducal Regulation](#) amending the implementing regulation to the Law of 8 April 2018 on public procurement, the Authority expressed several reservations.

The Authority regretted that the explanatory memorandum did not explain further the elements taken into account to determine the proposed increase in the threshold for using the restricted procedure without publication of notice or the negotiated procedure.

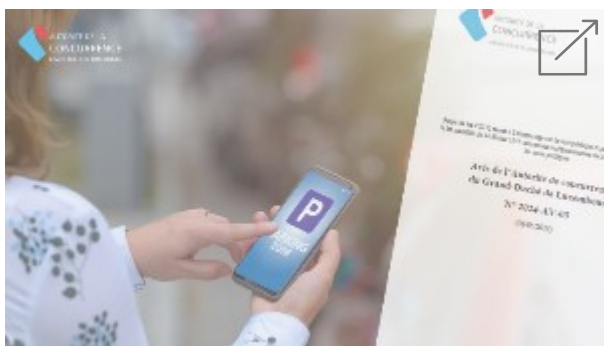
The Authority also took the view that the adjustment of that threshold should not be solely linked to the consumer price index. Considerations relating to changes in that index should, on the contrary, be weighed against the positive effects of public procurement principles and the resulting efficiency gains.



Bill on car-sharing

In its [opinion of 8 May 2024 on the bill on car-sharing on public roads](#), the Authority welcomed the proposal to provide a transparent and non-discriminatory legal framework for car-sharing to promote shared mobility and optimise urban redevelopment.

However, the Authority regretted the lack of discussion of the competitive situation and the potential entry of new operators in this market. The Authority also suggested certain improvements to the bill.



INVESTIGATION AND SANCTIONING OF ANTI-COMPETITIVE PRACTICES

The Authority has the power to take binding decisions to enforce competition law. In particular, it may take decisions compelling undertakings to end an infringement and imposing sanctions, decisions accepting commitments and decisions imposing interim measures. The purpose of these decisions is to prevent or bring to an end anti-competitive practice.

The Authority has investigative powers to investigate and sanction possible anti-competitive practices.

INVESTIGATIONS

Inspections in the pharmaceutical and parapharmaceutical sectors

On 11 and 12 June, officials from the Authority, with the support of the Judicial Police Service, and under the authority and supervision of an investigating judge, carried out unannounced inspections at the premises of various companies suspected of anticompetitive practices in the pharmaceutical and parapharmaceutical sectors.

These inspections are a preliminary step in the investigation process about potentially anticompetitive practices. They do not mean that the undertakings concerned are guilty of anti-competitive conduct and do not prejudice the outcome of the investigation, in accordance with the rights of the defence.



DEVELOPMENT OF AN AI-BASED DIGITAL ASSISTANT

On 24 September, the Luxembourg Institute of Science and Technology (LIST) and the Authority joined forces to develop an artificial intelligence-based digital assistant designed to improve the effectiveness and efficiency of competition law enforcement.

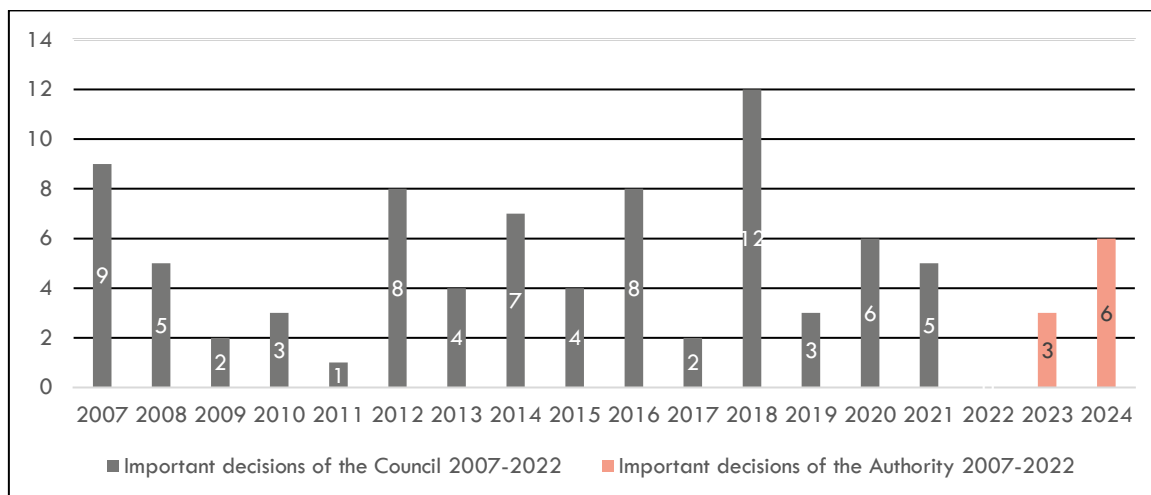
This partnership is the result of a shared vision to harness the potential of AI to advance the legal landscape. In the face of growing volumes of data crucial to competition law, traditional methods of investigation have become increasingly cumbersome. The collaboration between the Authority and LIST aims to address these challenges by integrating advanced AI tools into the legal workflow.



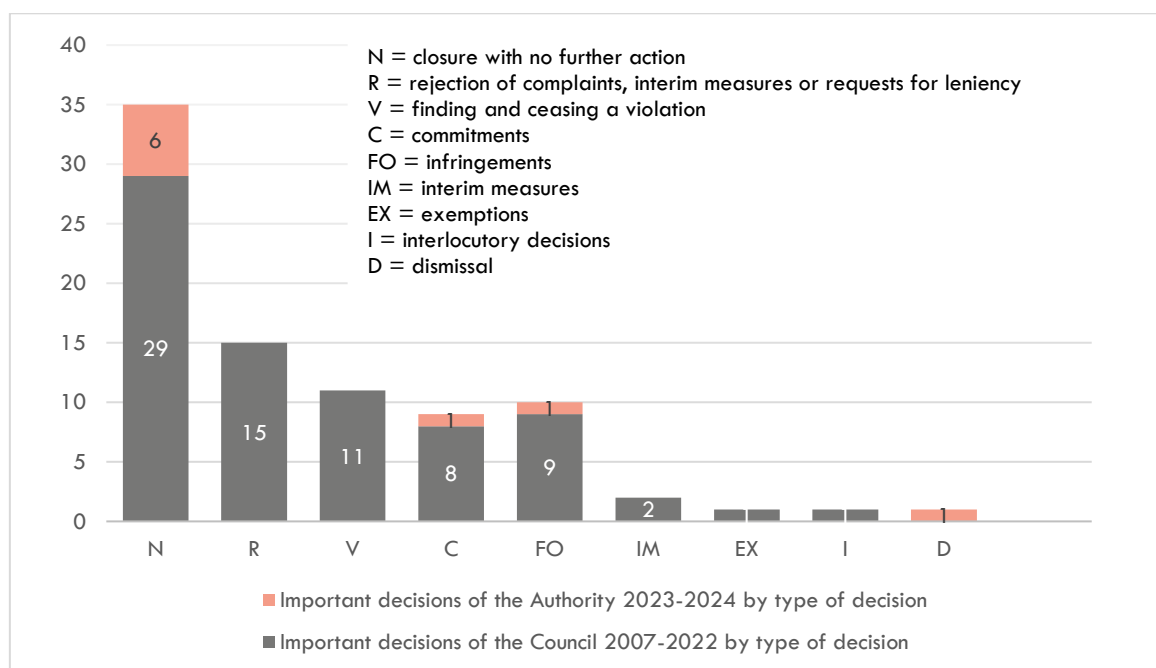
By combining AI-based LIST tools and methodologies with the Authority's in-depth legal expertise and control mechanisms, this collaboration could set a precedent for the future of law enforcement by public authorities in Luxembourg.

DECISIONS

Among the decisions issued in 2024, the Authority notably issued six important decisions.



NUMBER OF IMPORTANT DECISIONS ADOPTED BETWEEN 2007 AND 2024



IMPORTANT DECISIONS ADOPTED BETWEEN 2007 AND 2024 BY TYPE OF DECISION

Commitment decision – OAI

On 25 March 2024, the Authority accepted and rendered binding the commitments proposed by the Ordre des architectes et des ingénieurs-conseils (OAI) to address its competition concerns.

The OAI had made available to its members documents including, on the one hand, optional hourly rates and, on the other hand, the method for calculating fees to be applied in public works contracts.

On 8 March 2021, the investigating councillor sent a statement of objections to the OAI, stating that by disseminating these documents, the Order had adopted decisions by an association of undertakings with the object of preventing, restricting or distorting competition.

On 11 October 2023, the OAI proposed commitments to address the competition concerns raised by the investigating councillor.



Closure without further action – Allegations of abuse of a dominant position

On 23 April 2024, the investigating councillor closed an investigation into a complaint that a multinational undertaking had abused of its dominant position.

The case concerned allegations of excessive and discriminatory prices and unfair trading conditions imposed on small Luxembourg producers.

In his decision, the investigating councillor found that the investigation had not revealed any indications of a violation of the prohibition against abuses of a dominant position. With regard, in particular, to the allegations of excessive pricing, the investigating councillor applied the two-step test developed in the CJEU's *United Brands* case-law.

First, the investigating councillor verified whether the prices charged by the undertakings concerned were unfair in themselves. In this regard, he noted in particular that the prices in question had not increased sharply and significantly in previous years and did not enable that undertaking to achieve particularly high margins.

Second, the investigating councillor checked whether the prices were unfair in comparison with various benchmarks, including the prices applied in a comparable Member State (after adjustment based on purchasing power parity indices). The investigating councillor's examination revealed that some of the prices applicable in Luxembourg were lower than those applicable in those Member State. The prices that were higher in Luxembourg were explained by differences in transport costs.

No appeal was lodged against this decision under Article 35(3) of the amended Law of 30 November 2022 on competition.

Closure without further action – Security and surveillance services

By decision of 13 November 2024, the case opened in 2020 in the security and surveillance services sector was closed without further action. Following a statement of objections in 2023, the file had been referred back for additional investigation.

However, the additional investigation did not establish any infringement of competition law, in particular Article 4(1) of the amended Law of 30 November 2022 on competition and Article 101(1) of the Treaty on the Functioning of the European Union (TFEU).

MERGER CONTROL

In 2024, pursuant to Article 22(1) of Regulation 139/2004 on the control of concentrations between undertakings, the Authority referred to the European Commission transactions that were liable to affect trade between Member States and threatened to significantly affect competition in Luxembourg.

Request for referral of the acquisition of Boissons Heintz by Brasserie Nationale

On 7 February 2024, the Authority sent a request to the European Commission to examine the acquisition of Boissons Heintz by Brasserie Nationale under EU merger control rules.

In its request, the Authority argued, *inter alia*, that this acquisition threatened to significantly affect competition in Luxembourg by combining the country's two main wholesale beverage distributors. According to the Authority, the acquisition was also liable to affect trade between Member States by hindering the access by foreign beverage producers (beer and mineral water in particular) to the relevant Luxembourg markets.

On 15 March 2024, the European Commission accepted the [Authority's referral request](#), deciding to examine the acquisition of Boissons Heintz by Brasserie Nationale and requesting the latter to notify the transaction.

Intervention before the General Court of the European Union in Case T-289/24

On 3 June 2024, Brasserie Nationale and its distribution subsidiary Munhowen brought an [action before the General Court of the European Union against the European Commission's decision of 15 March 2024](#) to examine Brasserie Nationale's acquisition of Boissons Heintz under European merger control rules.

On 30 August 2024, the Authority requested leave to intervene in support of the forms of order sought by the European Commission, which requested the General Court of the European Union dismiss the action brought by Brasserie Nationale and Munhowen.

By [order of 3 October 2024](#), the President of the Sixth Chamber of the General Court of the European Union granted the Authority leave to intervene. The President of the Sixth Chamber held that the Authority had a direct interest in the outcome of the case since that case had a significant impact on the exercise of the powers conferred on the Authority by Luxembourg legislation.

The Authority is the first national competition authority to be granted leave to intervene before the General Court of the European Union.

REPRESENTATION WITHIN THE EUROPEAN COMPETITION NETWORK (ECN)

The Authority actively participates in the implementation of EU competition policy by representing the Grand Duchy of Luxembourg in the [European Competition Network \(ECN\)](#).

The ECN brings together the national competition authorities of the Member States of the European Union and the European Commission.

The ECN's work within the various horizontal and sectoral expert groups is steered by meetings of the directors-general, which are prepared during plenary meetings.

MEETINGS OF DIRECTORS-GENERAL (DGs)

Meetings of *Directors-General* (DGs' Meetings) bring together the presidents/directors of National Competition Authorities (NCAs) and the Director-General of DG Competition, who chairs the meetings. Representatives of national ministries responsible for competition policy may also be invited to parts of these meetings, for discussions on general policy.

The DGs' meetings examine strategic issues relating to the application of competition rules, cooperation and competition policy. They also approve working documents submitted by the plenary and prepared by the ECN's working groups and sectoral subgroups.

ECN Joint Statement – Draft Guidelines on exclusionary abuses

During the DGs' Meeting on 20-21 June in Split, Croatia, the ECN adopted a joint statement on the European Commission's initiative to adopt guidelines on exclusionary abuse practices by dominant undertakings.

The Authority subsequently reiterated its [support for the draft guidelines](#), in which it was actively involved as a member of the ECN.

These guidelines aim to strengthen the framework for the application of Article 102 TFEU, by ensuring that actions against abusive exclusionary abuses by dominant undertakings are meaningful, effective and consistent.



PLENARY MEETINGS

The purpose of the ECN plenary meetings is to discuss the work of the ECN working groups and to adopt common policies.

ECN HORIZONTAL EXPERT GROUPS

These groups bring together representatives of each NCA and the European Commission on specific topics, with the aim of promoting greater consistency in their decision-making practice.

Working Group on Cooperation Issues and Due Process

This group assesses the procedures of each NCA and areas of convergence to ensure increased effectiveness in the implementation of Articles 101 and 102 TFEU.

Working Group on Cartels

This group aims to build and consolidate a genuine European anti-cartel policy with each NCA.

Working Groups 101 TFEU and 102 TFEU

These groups address specific and topical topics for NCAs in relation to horizontal or vertical anti-competitive practices and abusive behaviour.

Working Group on Mergers

This group promotes the exchange of views on merger control and discussions on the NCAs' and the Commission's experience.

Chief Economists Working Group

This group analyses the economic aspects of competition law and their role in the work of the authorities.

Digital Markets Working Group

This group addresses the issues raised by the handling of cases involving companies and digital platforms.

Working Group on the Digital Markets Act

This group coordinates the work to implement the Digital Markets Act (DMA):

- process for designating individual gatekeepers
- cooperation between the Commission and the Member States
- coordination between the new regulation and traditional competition cases.

ECN "SECTORAL" EXPERT SUBGROUPS

The ECN also has different working groups focusing on specific economic areas or sectors:

- ✓ Agri-food sector
- ✓ Pharmaceutical and health sector
- ✓ Banking and financial sector
- ✓ Environment sector
- ✓ Telecommunications sector
- ✓ Energy sector

COOPERATION AT EUROPEAN AND INTERNATIONAL LEVEL

ADVISORY COMMITTEE ON RESTRICTIVE PRACTICES AND DOMINANT POSITIONS

The Advisory Committee on Restrictive Practices and Dominant Positions is the forum where experts from the various competition authorities examine certain cases as well as general issues of European competition law.

It thus contributes to the maintenance of a consistent application of European competition rules.

In 2024, the Authority was appointed 'rapporteur' for the presentation of Case AT.40632, *Mondelez trade restrictions*, to the members of the Advisory Committee.

ADVISORY COMMITTEE ON MERGERS

The Advisory Committee on Mergers assists the Commission in the application of the [Merger Regulation](#). It is consulted prior to any final decision or decision to impose a fine.

Composed of representatives of the competent authorities of the Member States, it also contributes to the maintenance of a consistent application of European competition rules.

EUROPEAN ASSOCIATION OF COMPETITION AUTHORITIES (ECA)

On 22 and 23 April, the Authority, represented by its Vice-President, Marco Estanqueiro, attended the annual [ECA Meeting](#) organised in London by the Competition and Markets Authority on the following topics:

- Dynamic Mergers,
- AI foundation models and AI as a tool for enforcers, and
- An alternative competition tool : the CMA's experience using the market investigation tool and developments in other jurisdictions.



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Founded in 2001, the [European Association of Competition Authorities](#) (ECA), is an informal association that serves as a forum for discussion by the competition authorities of the European Economic Area (EEA), which includes the European Commission, the authorities of the Member States of the European Union and of the EFTA States (European Free Trade Association) Norway, Iceland and Liechtenstein, and the EFTA Supervisory Authority.

ECA's purpose is to improve cooperation between competition authorities and to contribute to the efficient use of national and European competition rules.

DACHLIELUX

On 29 and 30 August, the Authority had the pleasure of welcoming the [German-speaking national competition authorities of the European Union](#) (EU) and of the European Free Trade Association (EFTA).

These days of exchanges were marked by in-depth discussions on best practices, innovative projects, as well as on the recent challenges faced by our respective institutions. A great opportunity to strengthen cooperation to ensure effective and dynamic competition within our respective territories.



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FRENCH COMPETITION AUTHORITY

On 1, 2, 10 and 11 October, Charline Di Pelino, legal advisor and head of the Competition Department, and Guilhem Issartel, lawyer and investigator in the Department, had the opportunity to benefit from the experience of the French Competition Authority by participating in the initial training seminar given to its newcomers.

This collaboration allowed them to discover how the various departments of this neighbouring authority work and are organised, and to draw inspiration from this to improve internal procedures and training within the Luxembourg Authority.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT (OECD)

The OECD addresses competition issues through the meetings of the *Competition Committee* and the *Global Competition Forum*.

The [Competition Committee](#) encourages exchanges of views and analysis on competition policy issues.

The OECD's [Global Forum on Competition](#) brings together competition officials from more than 100 authorities and organisations around the world to discuss key issues and recent trends in competition law.

OECD – Global Competition Forum

On 2 and 3 December, the Authority, represented by its President Pierre Barthelmé and Special Legal Advisor Serge Sandt, attended the [OECD Global Forum on Competition](#) in Paris.

Since 2001, the OECD Global Forum on Competition has brought together senior officials from more than 100 competition authorities from around the world.

Participants debate and discuss key topics on the global competition agenda. The programme includes roundtables, presentations by renowned experts, and peer reviews.



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INTERNATIONAL COMPETITION NETWORK (ICN)

At international level, the Authority actively participates in the work of the *International Competition Network*.

The ICN brings together different national competition authorities at global level and serves as a forum for discussion on competition law enforcement topics.



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