

The French Competition Authority launches a public consultation on the competitive situation of payment activities as part of its “Fintech” sector study

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Authors: [Emilie Rogey](#), [Yann Utzschneider](#), [Bertrand Liard](#), [Jean-Julien Lemonnier](#)

The French Competition Authority launched its own initiative in early 2020, a sector study focusing on new technology applied to financial activity, particularly in the payments sector which has experienced major developments in recent years.

As part of its study, the French Competition Authority has already consulted stakeholders in the banking sector and is now launching a public consultation, ongoing until 19 June 2020.

The public consultation consists of three components. It focuses in particular on the impact of new technologies in the payments sector and the entry of new non-bank players, whether they are new companies (Fintech) or major digital players whose core business is not banking.

Part 1 - Understanding developments in the payments industry

Fintech emergence

The French Competition Authority is interested in knowing how the public perceives the entry of new companies into the payments sector in recent years, namely the Fintechs.

The consultation is also interested in the development that Fintechs themselves have experienced since their take-off in the years 2010. In recent years there has been an intensification of (i) M&A or private equity operations through which certain traditional players in the banking sector have acquired or taken significant stakes in Fintechs, as well as (ii) partnerships formed with banking players in order to carry out the digitalization of their activities.

The French Competition Authority also notes that certain traditional players in the banking sector have joined forces to create joint ventures specializing in online and/or mobile payment services.

Entry of major digital players

The consultation also aims to question the public on its perception of the arrival of digital companies in the payments sector in France, and in particular certain Chinese and American companies.

Impact of the technologies employed

The French Competition Authority also wishes to determine the impact of new technologies such as "cloud" and "blockchain" on the functioning of the payments sector, and notes the emergence of new services and new exchange instruments such as crypto-assets.

Part 2 - Delimitation of the markets concerned and the competitive situation

Positioning of new players in the payment market

The French Competition Authority is assessing the public's perception of new participants in the payment market in relation to the situation of traditional banking players. In particular, whether these new players are perceived as competitors or rather complementary to the existing offer.

Competitive advantages and market power

The consultation also seeks to assess the competitive advantages of the various active players in the payments sector, and whether any have a significant competitive advantage or even market power, the abuse of which could be sanctioned. The Authority's aim is to determine whether entry barriers will disrupt competition or whether certain players hold a dominant position.

Part 3 - Business Practices in the Payments Industry

In the third part of its consultation, the French Competition Authority is focusing on the identification of competitive shortcomings linked to new technologies applied to payment activities.

In this respect, the consultation asks specifically about possible malfunctions caused by the development of crypto-assets, the use of blockchain technology or the provision of "cloud" services.

Follow-up to the public consultation

This consultation will lead to the publication of a detailed analysis of the Authority's perception of the sector (as an example, the opinion delivered in April 2019 regarding the healthcare sector was followed by a comparable public consultation, approximately 300 pages long excluding annexes) and recommendations to improve the competitive situation (including proposals for adapting the legal and/or regulatory framework).

Furthermore, experience shows the French Competition Authority may initiate litigation proceeding as a result of their finding (see the "online advertising" opinion issued in March 2018 for additional information).

White & Case LLP
19 Place Vendôme
75001 Paris
France

T +33 01 55 04 15 15

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