

The Polynesian Competition Authority

An independent administrative authority

The Polynesian Competition Authority (PCA) was created by French Polynesia's Act No. 2015-2 of 23 February 2015 in accordance with article 30-1 of the Statute of French Polynesia [1]. Within the Republic, it is the first independent administrative authority which was not established by the French State, but by French Polynesia. This particular status makes it a real innovation within the Polynesian administrative landscape.

Indeed, an independent administrative authority is not part of the hierarchy of the administration and has its own powers (opinions, recommendations, authorizations, decisions and sanctions). It has legal functional autonomy and material autonomy.

It acts on behalf of French Polynesia, which has delegated part of its regulatory power to it, in the area of competence assigned to it. It is independent from both public authorities and controlled economic sectors.

It carries out its missions on referral by the government for an opinion, on notification by a company of a concentration or creation/extension of retail space, or on referral by a complainant for an anti-competitive practice. It can also take action on its own initiative.

It makes quasi-judicial decisions against the perpetrators of anti-competitive practices by ordering, if necessary under penalty, to put an end to them, by pronouncing financial sanctions, and, in the event of seriousness and urgency, by taking provisional measures in order to remove their effects. Its responsibility is to authorize operations of concentration or creation or extension of retail space, sometimes subject to commitments aimed at erasing anti-competitive effects of the operation and, more rarely, to deny authorization. The Authority can sanction abuses of a dominant position or of a status of economic dependence or make its competition concerns known to companies in a dominant position in an economic sector or in a customer catchment area and order them to dispel them.

Its decisions can be challenged before the competent judicial or administrative court. It also issues opinions, where appropriate, accompanied by recommendations.

In accordance with the provisions of article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms, applicable to the Authority, according to which everyone has the right to have their case examined fairly, by an independent and impartial tribunal, the investigation is carried out in complete independence by the Investigation Department, placed under the supervision of the General Rapporteur. It is only at the end of adversarial investigation proceedings that the cases are transmitted for examination by the Board of the Authority.

[1] Article 30-1 of Organic Law No. 2004-192 of 27 February 2004, as amended, establishing the autonomy statute of French Polynesia.

Powers

An Authority specializing in the finding and sanctioning of anti-competitive practices and in the expertise of how the market functions.

The Polynesian Competition Authority must guarantee the respect for economic public order.

The Polynesian legislator has assigned three main missions to the Polynesian Competition Authority:

- To look for, ascertain and sanction anti-competitive practices
- To control operations related to the concentration or creation/extension of retail spaces
- An advisory role on any competition issue.