

**PERFORMANCE
THROUGH THE LAW
COMPETITION
ON THE MERITS**

PASSIONATE, EXPERIENCED, AND DEDICATED, WE GET THOROUGHLY AND IMMEDIATELY INVOLVED IN EACH MATTER WE ARE ENTRUSTED WITH. THANKS TO THE COMPLEMENTARITY OF OUR PRIVATE AND PUBLIC LAW PRACTICES, EACH WITH A STRONG LITIGATION DOMINANT, WE HAVE A UNIQUE FULL-RANGE SERVICE MARKET POSITION IN ECONOMIC LAW.

WE ADVISE LEADING FRENCH AND FOREIGN COMPANIES, AS WELL AS STATE OR STATE-OWNED ENTITIES AND PROFESSIONAL ORGANISATIONS IN ALL AREAS OF COMPETITION LAW, REGULATION AND PUBLIC ECONOMIC LAW.





FIELDS OF EXPERTISE

Fréget Glaser & Associés has, since its inception in 2014, continuously grown to become a solidly established and well-reputed high-end practice in the field of competition and regulation. Our key differentiator with respect to other law firms, especially those driven by their corporate department, is the ability to propose complex litigation strategies fitting with the client's overall business strategy. The keys to our success lie not only with the cutting-edge legal expertise of the team members, but also with our ability to combine legal and economic thinking to elaborate and implement out-of-the-box solutions.



ANTI-COMPETITIVE BEHAVIOUR AND RESTRICTIVE PRACTICES

Tightly intertwined with the economic activity of businesses, competition law aims to ensure a level playing field. SMEs and large companies alike competing on the merits may sometimes encounter insurmountable obstacles due to a market dysfunction, such as an abuse by a dominant player, a cartel, a restrictive business practice, or even a regulatory blockage.

Our role is to assist these market players to restore the balance. The legal strategy we will design with our clients may require starting litigation before the courts, referring the matter to a specific competition or regulatory authority, including the European Commission, or using all these legal avenues at once. In defence, we will assist with the same involvement and dedication the companies prosecuted in the context of investigations conducted by the competition authorities and, on appeal, before the competent courts.



ECONOMIC LITIGATION AND PRIVATE DAMAGES ACTIONS

Our practice covers common civil and commercial litigation, as well as the more specific competition and sectoral regulation dispute settlement mechanisms. We will systematically assess the opportunity of multiple actions.

An important part of our work covers compensation actions to help companies recover damages resulting from anti-competitive or restrictive practices. Whether autonomously ('stand-alone') or following a conviction by a competition authority ('follow-on'), this type of litigation requires a thorough knowledge of both the procedural rules (collection of evidence, statute of limitations, etc.) and the substantive rules. We will also often work with external economic and financial experts (e.g., to elaborate the damage assessment). In more complex cases, we can set up third-party funding for multiple smaller applicants, whose collective action may be joined alongside medium or larger players.

REGULATORY ASPECTS OF MERGERS & ACQUISITIONS

A good knowledge of the economic sectors is essential to the success of an M&A transaction.

Regulatory analysis and administrative authorizations

Risk assessment involves anticipating the position of the administrative authorities, identifying the impact on the transaction of the various administrative authorisations required or assessing the public law contracts that fall under a specific regulation often difficult to handle. An M&A transaction will also require an overall compliance assessment with ancillary regulations, including those deriving from EU law. This may include assessing, for example, any subsidies or other forms of public aid likely to impact the valuation of the company. Whenever possible, we will propose solutions to minimize or neutralize such risks.

Merger control and foreign investment regulations

Beyond the essential skills required for the analysis and the notification of mergers, acquisitions, or joint ventures (JVs), at national or European level, our firm has developed solid expertise in complex transactions requiring structural or behavioural remedies. We also assist interested third parties, both in the administrative phase of the merger control process and in litigation before the jurisdictions on appeal (Council of State, General Court, Court of Justice).

The firm also advises its clients on all matters related to foreign direct investment (FDI) regulations, as well as privatizations or public sector restructurings.

STATE AID

The assessment involves identifying properly the existence of State support for an undertaking that may translate not only in a pure subsidy, but in any kind of measure likely to grant an economic advantage over its competitors. Such measures may be prohibited or benefit from an exemption or an authorisation from the European Commission if justified. On these aspects, we advise companies, either as beneficiaries of aid or as affected competitors, as well as financial institutions, for example in the case of State guarantees in the context of project financing, or public entities as purveyors of aid. Our work spans from the preliminary analysis to the notification process before the European Commission.

REGULATED SECTORS

Market regulation does not occur only in formerly monopolistic sectors getting open to competition, it can be anywhere: market access authorisations, certifications of conformity, various types of price regulation, supervision of regulated professions, agricultural quotas... Understanding these regulations and being able to juggle with them is essential for any economic operator willing to enter a new market and gain market share.

To respond adequately to these needs, our firm has developed a double expertise, allowing a 360° perspective and a full-range advice.

On the one hand, we regularly assist businesses in all aspects of their activities, including pricing negotiations with the administrative authorities, support in the implementation of their projects to obtain marketing authorizations, representation before the regulatory authorities in the context of sanction or dispute settlement procedures.

On the other hand, we also advise public authorities, professional organisations, or State-owned entities, particularly in the context of major reforms in their sector, such as opening markets to competition, adoption of legislative and regulatory provisions or changing the scope of public prerogatives to help develop a reliable doctrine in accordance with the interests at stake. Our work in this context includes assisting the public authorities in defining the scope of their regulatory power, approval of operations, implementation of their power to impose sanctions.

PUBLIC PROCUREMENT / PUBLIC DOMAIN / COMPLEX CONTRACTS

Public procurement is an incredible opportunity for companies to enter new markets or strengthen their position in an existing market.

In an increasingly competitive environment and navigating across an increasingly complex subject, companies must stand out and make attractive offers. Symmetrically, public or private persons must define their contractual requirements in an innovative way to best meet their needs. Each of them must know how to control the risks of irregularity and incurring liability, in particular to avoid collateral impact under criminal law.

Unanimously recognized for our expertise in these areas, we assist our clients in the upstream and downstream

phases of their projects: from the procurement procedure (definition of contractual arrangements and procurement procedures, structuring of offers and support in the negotiation phases, etc.) to the end of the contract (removal of property from the public domain, etc.), including all the issues related to its execution.

Because public procurement often includes a litigation component, our firm also acts for clients in all types of litigation (pre-contractual and contractual interlocutory proceedings, challenges of the contract validity or actions for the resumption of contractual relations, actions in liability, challenges amount of the contractual fees, etc.).

PUBLIC FINANCIAL LAW

Public financial law is largely unknown, particularly by private operators who may not be aware in which circumstances they fall in its scope, whereas the consequences of breaching the rules are potentially serious in terms of individual, criminal and reputational liability.

The Court of Auditors is increasingly active in all areas of business and its reports are increasingly critical. Its positions are taken up by the public authorities and lead to major reforms. The reports are also used in judicial or administrative disputes. Similarly, a financial irregularity or a management error even perceived as minor or innocuous can trigger a review by the Court of Budgetary Discipline and undermine the interests of a company or a manager.

Renowned for its unparalleled expertise in this area, our firm assists State-owned and private companies in structuring their activities and financial processes to ensure compliance of their operations. We also assist them during the audits carried out by the Court of Auditors and the Regional Chambers of Auditors and in the event of litigation before the Court of Budgetary and Financial Discipline.

CONSTITUTIONAL LAW LITIGATION

Any legislation can potentially be challenged on the constitutional ground because of its disproportionate nature, its lack of public interest or the breaches of equality that it may entail, for example. We have developed cutting-edge expertise in this field and we know how to identify the best and most relevant angles to challenge legislation which constitutes for our clients a barrier to their development: economic and criminal offences, price regulations, new taxes, the prerogatives of administrative authorities, etc.

Our firm also intervenes ahead of any litigation, assisting with the so-called practice of the 'narrow door' before the Constitutional Council that provides an opportunity to censor or amend an unconstitutional law.



SECTORS

A growing number of economic sectors are highly regulated, in addition to being highly technical. Their operation is monitored by specific regulatory authorities, while they remain also within the jurisdictional scope of ordinary courts and competition authorities. The balance of power in these markets is often part of the same types of issues (technical and pricing conditions, market access). Assessing such issues requires in-depth knowledge not only of the regulations, but also of the sector itself and its stakeholders (market players, as well as regulatory authorities).

ENERGY

A fervent defender of the opening of energy markets, our firm works alongside alternative operators and new entrants on the full range of issues throughout the value chain: transport, distribution, relations with end users. The distinctive characteristic of the firm is to combine regulatory and competitive approaches to ensure that French domestic law is brought into line with the principles derived from EU law.

ELECTRONIC COMMUNICATIONS

An emblematic sector of the successive disruptions caused by technological progress and increased competition, the telecommunications market is the scene of massive investments, constant revisions of business models and attempts at collaboration between suppliers, which continue to attract the attention of the regulators. Having followed its evolution since 1999, we have a rare expertise in this sector. In addition to liberalization, unbundling, the development of ADSL and now fiber optic and mobile networks, we have extensively advised and litigated for clients, including on issues related to digital ecosystems and net neutrality.

LIFE SCIENCES

Regularly distinguished for our expertise in this field, we advise and represent in court several major international companies in the pharmaceutical sector on a broad range of competition issues (distribution in pharmacies and hospitals, pricing, relations between market players, including the sensitive issues of originators and generics competitive relationships). We also advise on a regular basis the sectoral professional associations. On all regulatory aspects (price fixing by the CEPS, administrative litigation, etc.), we mobilise our own skills and, where necessary, also work in an integrated way with experts in health law.

MEDIA (TELEVISION AND RADIO)

We assist several major market players in the media sector on issues related to content, agreements with rights holders, distribution, technical integration of platforms and solutions, relations between competitors at the different levels of the value chain. This expertise often requires a strong understanding of the sectoral regulation on electronic communications, but also an ability to mobilize skills in commercial and regulatory litigation (ARCOM, Council of State) in the event of disputes.

 **TRANSPORT**

We assist operators, particularly in the railway sector, with regard to the technical and pricing conditions for access to the network, the content of the network statement, as well as in the settlement of disputes before the transport regulator and before the Paris Court of Appeal. We also work with the public authorities to flag the challenges of a project or its implications and have the skills to design and propose reform schemes, then help with their implementation by participating in the drafting of the necessary legislative and regulatory provisions.

 **DIGITAL**

Digital transformations are shaking up traditional industries but are also bringing out new rules aimed at specifically regulating these activities. Digital platforms, advertising technologies, data collection and use are closely scrutinised by competition authorities and are becoming the subject of strong sectoral regulation. In keeping with these developments, and regularly advising major players in this sector, our objective is to anticipate and be a thought leader on these topics.



SERVICES



A TAILOR-MADE LEGAL STRATEGY

We analyse the situation of each client in a multidisciplinary approach, in connection with our network of partners (lawyers, economists, experts). Considering the entire legal and competitive environment, we integrate litigation into any legal approach. A cost-benefit analysis of litigation may lead us to recommend an offensive strategy aiming to obtain the desired results as quickly as possible.



GLOBAL REPRESENTATION BEFORE THE NATIONAL AND THE EUROPEAN AUTHORITIES

We represent the interests of each client at national or European level, before the courts, the competition authorities, or the sectoral regulators. Implementing the previously defined strategy, we may combine or use alternatively lobbying and litigation. We therefore assist businesses in the development of their arguments before the various institutions, in connection with their advisors (in public affairs, communication, economics) in order to integrate them into the legal strategy.



OPTIMISED RISK PREVENTION

To prevent risks, we help our clients set up a global compliance policy while respecting the rights of employees. Comprehensive audits, compliance programs, monitoring: we have the capacity to deploy the appropriate tools and mobilize our partners network (auditors, experts, economists) if necessary.

KEY CONTACTS



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