

Interview with Isabelle de Silva, President, French Autorité de la concurrence

Editor's Note: *Isabelle de Silva was appointed President of the French Autorité de la concurrence in October 2016, having served as a member of the agency since 2014. She served in various governmental capacities, including with the Ministry of Culture and Communication and the Ministry of Ecology, Sustainable Development, Transport and Housing, and lately as president of a chamber of the French Supreme Administrative Court (the Conseil d'État). She was interviewed for the Antitrust Source on March 28, 2019, by Andreas Reindl.*

THE ANTITRUST SOURCE: For those readers less familiar with the Autorité de la concurrence, could you start by briefly explaining how the authority is organized and especially also what your jurisdiction encompasses?



ISABELLE DE SILVA: The Autorité de la concurrence was created in 2008, and took over from the Conseil de la concurrence, which was established in 1986. The Conseil originated from the Competition Commission, which had been in existence since the '50s.

Today, we are about 200 people and we have three main powers. The first is to approve mergers. Before 2008, this power was in the hands of the Minister for the Economy, and the Conseil would intervene to give an opinion on the most difficult cases. The team in charge of mergers is, roughly, 25 people and we examine 130 mergers per year.

The second main power of the agency is to examine competition infringements.

The third mission of the agency is to give opinions to the government. This is something quite specific for the French agency. The law provides that we must examine and give an opinion, based on the competition point of view, on certain legal texts like laws and decrees.

We also have a strong activity of drafting opinions asked for by our parliament, as well as sector inquiries issued at our own initiative.

Case handlers can look at cases of competition enforcement and work on opinions at the same time.

In addition, like all of the competition agencies in Europe, we spend quite a lot of time doing cooperation within the ECN, the ICN, and the OECD. The French agency has been involved in the ICN since its creation and has invested a lot in its development.

ANTITRUST SOURCE: You have been at the Autorité for about two-and-a-half years. What was your career path before you joined the Autorité?

ISABELLE DE SILVA: Originally, I graduated from a Business School in France. During my studies I've spent some time at Berkeley University and at Bocconi University. I then decided to do the ENA, the school for civil servants in France.

When I graduated from the ENA, I decided to choose the path of the administrative jurisdiction, so I joined the Conseil d'Etat, which is the French Supreme Administrative Court. It gave me the opportunity to alternate positions either as a judge at the court or as a senior official with ministries in our government. I was, for example, an advisor to the Minister for Culture, in charge of the press sector and press regulation in the '90s, and later the Chief Legal Counsel to the Minister for the Environment, Industry and Housing. My last position before joining the Autorité de la concurrence was President of the Chamber in charge of cases dealing with finance, environment, and justice at the Conseil d'État.

ANTITRUST SOURCE: From these previous positions, did you have any experience that helped you when you became president at the Autorité?

Since the beginning of my career, I have really been interested in what you would call in France, regulation.

ISABELLE DE SILVA: I think that the main thing that helped me was the fact that I have a legal and economic background. I don't know if I could say economic because I'm from a business school, so I'm not sure that economists would consider that. But I've always been very interested in the economy, the way companies work, and I did several internships with companies. I think that I've always been interested in this aspect of things.

Since the beginning of my career, I have really been interested in what you would call in France, regulation. When the Telecommunications Regulation Agency was created, I became their legal advisor. I was impressed by the way this agency made competition happen in the market that used to operate with one incumbent—the National Telecommunications Company. It was a huge change. Witnessing how a regulatory agency could transform the market was quite an experience.

I also got to work with the energy regulator when I was at the Ministry for the Environment. I later was a member of the regulator for the distribution of the press, and I had been a member of the Autorité de la concurrence for two years as a non-permanent member, before joining the agency.

In my day-to-day work, having been a judge in charge of a chamber also really helped me run the agency. A lot of what I do when I sit in cases—as President, I get to preside over the most important cases—is to bring the whole board to reach an informed decision and to lead a lively debate with the board, because we have many non-permanent members who come from civil society. It is a very diverse board and we have to reach the best decision. I also really like to look into the legal intricacies of cases, and writing decisions has always been a favorite activity for me.

ANTITRUST SOURCE: When you started at the Autorité, did you have any particular project, plan, or objectives in mind that you wanted to achieve?

ISABELLE DE SILVA: I think that one first objective was to maintain the high level of reputation that the agency gained with my predecessor, Bruno Lasserre, who did a lot to develop the agency and to boost its capabilities, for example, by hiring more economists.

I also came with the idea that we should be extremely active to tackle digital issues, and that we had to be an agency that would help government and legislative bodies have a clear view of when the law might be changed. I think that having a strong interaction with the government and the legislator is very important because it's all part of defining a competition policy. Having a competition policy that works means not only applying the law as it is, but also saying where there is a gap in the law.

Another part of the work of the agency, which I feel is particularly useful, is to help other fields of government take into account the interests of the consumer and of competition. Because

sometimes it's rather alien territory. The government has lots of interests to take into account but not so much competition. Or it might be biased by incumbents. Our role is to say: "Don't forget the consumers"; "Don't forget that it's important to minimize barriers to entry." The fact that we are independent from the government and that we are not in a bilateral relationship with a specific sector gives us both more freedom and a cross-section, wider vision of the economy.

ANTITRUST SOURCE: Did you make any organizational adjustments so that the Autorité would be able to more effectively focus on the issues you wanted to emphasize?

ISABELLE DE SILVA: Within a few months after I arrived, I launched a comprehensive internal review process, with a large participation of the staff and members of the board to have a sort of internal diagnosis of what we could do better.

We set up several working groups on various subjects, including how to better prioritize and manage cases and how to adapt existing means. The issue of timeliness and a faster resolution of cases so that they have an impact on the economy is a top priority. We also worked on helping new staff to be better trained. We even designed new tools for that.

This internal exercise was also an opportunity for us to assess our existing legal framework so as to see what could be improved. We identified all the different features that we felt were lacking in our statute (the French Code of Commerce). We then discussed with the government the ways to implement those changes.

As an example, when we do dawn raids today, when there are several sites that we must visit—typically in the case of a company having several subsidiaries on the French territory—we must refer the matter to the judge of each locality. We therefore proposed to have the power to talk to a single judge who would give us the powers to conduct dawn raids in the different localities.

Regarding more important points, we asked for some legal changes that would enable us to have a more expedited procedure in antitrust cases. Today, we have two written sets of adversarial procedures and then one oral hearing. We felt that, in some cases, we could have only one written adversarial round, and then the oral hearing.

We really tried to see everything that was not perfect and that we wanted to have in our legal framework. It was interesting because some ideas that we had, in the end, were approved by the ECN plus Directive, such as for example, the possibility of deciding interim measures at our own initiative.

ANTITRUST SOURCE: Any major learnings, things you didn't expect, things that were more difficult than you expected? Or things that you have been able to achieve since you started?

ISABELLE DE SILVA: One thing I discovered that was initially a bit surprising for me is that the competition world seems mostly made up of experts who spend their whole career in the field of competition. That's a bit surprising for me as I had a diversified career, like most top civil servants. At the same time, there are many good aspects to it because you have highly specialized lawyers and case handlers. Sometimes it can have some downside though because people may have only their field of activity as reference.

ANTITRUST SOURCE: It's a world of competition geeks, that's true. You have contacts, of course, within the ECN, OECD, the ICN, and you attend the Antitrust Section Spring Meeting. Did you see anything that differentiates the Autorité, where you feel that you are in a better or worse, or simply a different position, than other competition authorities?

ISABELLE DE SILVA: Being the head of the agency gives me the ability to meet with senior representatives coming from law firms, companies, but also ministries. I'm really impressed by the level of discussions that we have. The economic and legal debates that we have about big data, for example, is impressive. The dialogue between academia and enforcers is also something that I appreciate a lot. It creates a very positive dynamic.

When it comes to differences in Europe and beyond, I'm often impressed by the convergence on the tough problems, for example, data protection, the digital economy. When we meet with enforcers from Israel, the United States, and Japan, from the beginning, we speak the same language. And we often identify the same priorities. Of course, there are differences in terms of enforcement. In Europe, there are similarities among agencies. I would say Germany, Italy, Spain, Portugal are quite similar, although the legal systems have some differences. But we really have the same priorities, and we tend to look at things the same way.

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Differences lay in the legal framework. For example, there's the fact that the U.K. examines far fewer mergers than we do, and that Germany tends to issue less administrative fines than we do.

Even with more recent members of the European Union, like Lithuania, which is a very dynamic agency, I would say that there is no major difference of views. We tend to have the same vision of where we want to go as enforcers.

At the international level, I enjoy the dialogue within the ICN or the OECD. It gives me many ideas about new cases we should look into and also about ways of handling cases. I spend a good portion of my time learning about what's going on in other agencies. What I really like is to be able to have an intense dialogue with other enforcers on how they lead their investigations.

ANTITRUST SOURCE: Do you believe that the French, let's call it "enabling" environment, the conditions under which you operate as a competition authority, make a difference for you—compared to say the U.K. competition authority?

ISABELLE DE SILVA: When I speak with my colleagues in Germany and the U.K. for example, it's quite similar in that we spend a lot of time discussing with the government and the parliament. Still, I would say that the culture of competition is not as strong in France as it is in Germany, the U.K. or the U.S. It's striking. When I speak with members of Parliament, they tend to see competition as something a little bit negative. That's why I think we need to do a lot of explaining and advocacy. Often competition is misunderstood. I'm often told: "You only think about prices, you only think about consumers." I'm constantly explaining that "consumers" can also be companies, and that consumers need to have a special advocate.

ANTITRUST SOURCE: It creates more opportunities for you to persuade others. Let's turn to some substantive areas. Let's start with mergers, first with some questions on procedural aspects.

French merger control law has relatively high notification thresholds, and I understand you're thinking about options to review mergers that don't meet the thresholds under some sort of ex post regime. Is this already something concrete?

ISABELLE DE SILVA: Yes. We spent a lot of time thinking about whether we needed to create a value transaction threshold or another ex post merger control regime.

The Facebook/Whatsapp merger was certainly a major turning block for everybody interested in merger policy, and started the whole debate about a possible blind corner in our merger control regime. We conducted an internal analysis of whether we were "missing" mergers that we

would have liked to control but that would be below the threshold. We also opened a public consultation that took several months. Our conclusions were that we were not able to control some transactions that had a sizable impact on the competitive process. This was not only the case in the digital sector, but also in pharmaceuticals, or even in the food industry, for example.

We initially asked ourselves whether we needed to introduce a value transaction threshold in the French system. We felt that it was not necessarily the best solution for several reasons. There was the debate about what the value of the transaction is and how you define and evaluate it. The Germans and Austrians took a lot of time to solve it, and we saw that it was complex. There was also the issue of us controlling and looking at a lot of transactions that didn't have any competitive interest.

That's why we considered an ex post merger regime as an alternative proposal. We extensively discussed with the U.S. FTC and DOJ, the Swedish competition agency, and other competition agencies to understand how they were using such a power, and what their feedback was.

In the end, we made a proposal to the government to introduce such an ex post mechanism in our legal framework. The legal community was quite strongly opposed to such a change, and there were concerns about possible negative effects on startups wishing to be bought by big companies. It is now up to the government to decide what to do. The Prime Minister has announced in his speech during the 10th anniversary of the Autorité that he was considering the issue.

ANTITRUST SOURCE: So it would be the French way to address the problem that the Germans and the Austrians have addressed by introducing transaction value-based notification thresholds?

ISABELLE DE SILVA: Yes. We see this not only as a tool to look at certain big mergers in the digital economy, but also as an answer to examine mergers in sectors of the economy that are relatively small, so that the mergers don't reach the threshold, yet you may have high market shares and competition issues. We also made clear to stakeholders that if such a regime was introduced, we would provide some guidelines about how we would consider intervening, and that it would be a limited intervention only. We are also mindful of our resources and we want to look at mergers where there is a big competitive risk.

ANTITRUST SOURCE: You mentioned that when you examined the issue, you did identify some transactions that you thought should have been reviewed. Do you find that those were mostly national transactions that you thought you wanted to see, or were these large, international, Facebook-type transactions?

ISABELLE DE SILVA: The transactions that we identified were mostly French transactions, sometimes in the tech sector, sometimes not. I'm not saying that those mergers should have been blocked, but there were at least 10 to 15 mergers we would have liked to have a look at.

ANTITRUST SOURCE: Let's move to the next topic, staying on the procedural side: gun jumping. Clearly, with the Altice decision, the Autorité de la concurrence was at the forefront of the gun-jumping discussion in Europe. And you generated the interest in this topic, not just with the decision itself, but with some of the language used in the decision, which made people wonder how far the Autorité might be willing to extend the concept of gun jumping. You even published an article on this decision. What would be your main takeaway from the Altice case?

ISABELLE DE SILVA: One of the reasons why the case attracted so much attention is that we decid-

ed to issue a significant fine of 80 million euros, because we considered that it was a serious infringement and because this was a big merger, which presented a number of competition issues.

There was a debate about what was allowed and what was forbidden. Even though we had reached a settlement and we could have issued a short decision, we chose to draft a very detailed decision to explain our reasoning to stakeholders and the legal community. There was a lot of debate about the use of so called “clean teams” and how the company could avoid gun jumping when discussing with another company while preparing the merger. What was the type of information they could share? In what way? So we really went into a lot of details about some elements of the decision.

After the decision was published we entered another phase with a very intense discussion with stakeholders—companies, lawyers—with the view of explaining clearly the “rules of the game.”

After the decision was published we entered another phase with a very intense discussion with stakeholders—companies, lawyers—with the view of explaining clearly the “rules of the game.” For example, we held a conference on gun jumping with the wider antitrust community. We also met with the Association of Competition Lawyers in France, which had set up a group to analyze the decision. I also wrote an article in a specialized publication to provide further answers in order to give as much clarity as possible to all stakeholders. I received some good feedback about this article and the questions raised by stakeholders have been clarified. We will now wait to see what the General Court will say about the EC decision regarding Altice in Portugal.

ANTITRUST SOURCE: Yes, the conduct there was apparently as bad as in the case that resulted in the French decision.

ISABELLE DE SILVA: There were some similar elements in the two Altice cases, yes.

ANTITRUST SOURCE: After your decision, the Court of Justice decided the Ernst and Young case. Did you feel that that somehow impacted the scope of your Altice decision?

ISABELLE DE SILVA: No, because it was afterwards . . .

ANTITRUST SOURCE: I meant in terms of the holding in Ernst and Young.

ISABELLE DE SILVA: There was a debate and my interpretation of the Ernst and Young decision is that it’s not contrary to ours. I have heard issues being raised about the fact that the judgment would lead to an interpretation of gun jumping that could be narrower than the one we had applied.

We applied French law. So in any event, we are not directly affected by this jurisprudence based on the European regulation. But, of course, in our decision, we also made references to European jurisprudence because we always try to be as coherent as possible with European law, even though we were only applying French law in that case. The Ernst and Young case was also quite specific.

ANTITRUST SOURCE: I understand from your summary of the French Altice decision that the focus in a gun-jumping inquiry should be on the acquisition of control, a controlling interest, and that seems to be largely aligned with the European Court.

Because you mentioned your interaction with stakeholders, what has been the feedback from the private sector? Do stakeholders feel that the rules are clear enough now? Or are they still worried that there’s too much uncertainty?

ISABELLE DE SILVA: Regarding gun jumping, I feel that there is much less anxiety now. And what I see is that in-house counsel and lawyers are much more careful than before.

What gave even more importance to this issue was that after our decision it so happened that there was the EC decision, and many others in Brazil, Lithuania, and all over Europe. There were precedents in the U.S. and in Europe but, suddenly, this large number of gun-jumping cases was impressive. It especially became a major issue for companies with the level of fines the EC, or ourselves, had decided to impose.

Let's not forget in the end that some mergers are abandoned. When such situations occur, you don't necessarily want to give your competitor all your strategic information, or to engage in discussions that may be regarded as illegal agreements. It's also a precaution not to start acting "as one" when the merger is not finished and approved.

ANTITRUST SOURCE: We can't talk about mergers without getting to Siemens/Alstom and the fall-out from the case. You are from the country where the criticism of the decision was stronger than anywhere else.

ISABELLE DE SILVA: That was also the case in Germany.

ANTITRUST SOURCE: Yes, true. So you share that position. What is your view of the French Minister's reaction to the decision by the Commission?

ISABELLE DE SILVA: I'll just say it's a case we followed closely, like all major cases. I have to say that some of the criticism seemed to be a little bit extreme to me, most of it coming from authorities that don't necessarily have the day-to-day knowledge of how mergers are analyzed and examined.

This merger had been very much supported by governments, which explains why there was acute disappointment expressed about the outcome. I think that it raises more general questions that are, for some of them, legitimate and that need to be addressed.

The question for example of how you evaluate potential competition and the geographic definition of the market is something that we know is not easy. Is the market the world or Europe? This point was raised in that case and is not so easy to tackle. Sometimes the line is not easy to draw, so I think this could be debated. I also think that the issue of how agencies assess potential competition is central to the current debate, for example when you consider entry by digital giants. Another worthwhile debate is the one concerning the issue of the time frame for the merger analysis.

This being said, I completely agree with the way the Commission did the merger analysis.

I think that the reaction was also strong because some elements of the general European policy may be found lacking. A choice that was made some years ago was to not make it possible to render the public tenders in Europe conditional to reciprocity. It is a legitimate concern, and I said it several times, including to our government. The answer may not be in changing competition or merger policy, but in developing policies that may be underdeveloped today.

This should probably lead us to re-examine trade relations with certain regions of the world where competition enforcement is much lower than in Europe. A few weeks ago, during the Autorité's 10th anniversary in Paris, Pascal Lamy, former WTO chief, acknowledged that maybe he had made a mistake in not taking into account public subsidies in the rules of the WTO and that, in retrospect, they should have been included.

Regarding the possibility of intervention by the Council in merger decisions by the EC, this could be imagined (we have this system in France and Germany). This would however be very complex to define from an institutional point of view. There would also be a serious risk of politicizing decisions that today are not perceived to be political.

Even from the point of view of French interest, this might lead to some debates from other countries criticizing mergers that the French government would like to see approved. So this might not be the best idea. It's not impossible, but in the end, it might become more of a problem than a solution.

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being said, and be able
to provide answers.*

ANTITRUST SOURCE: You mentioned the Ministerial intervention. Last year, your agency was at the receiving end of a government decision that modified the remedy in one of your merger decisions. What is the role of the Autorité, when the Minister, essentially, takes over a case? What was your reaction when the Minister allowed the merger to proceed with modified remedies?

ISABELLE DE SILVA: This was the first time that this faculty was used since the Autorité received the power to approve mergers in 2008. The Minister can only intervene on grounds other than competition, like employment or industry objectives.

The fact that the Minister intervened in that case is linked to the many specificities of the case. It was a difficult merger with a very high market share in the food processing industry. We found that the competition and possibility of entry were extremely low, due to characteristics of the market of canned foods and because you needed, for instance, specialized production lines. It was also the first time that we had ever issued an injunction to sell plants because the company wasn't willing to propose remedies.

The main reason why the Minister decided to intervene was because the French government had offered a specific financial help to the company that was being bought. Furthermore, the company put forward that it needed to keep all its assets to survive.

Had this faculty by the Minister not been in place, there might have been some pressure on us to approve or not approve the merger. As the system stands, we are able to do our job without having to take into account other elements that are difficult to incorporate in the competition analysis.

ANTITRUST SOURCE: One last point on this case. You mentioned before the somewhat incestuous relationship within the competition community. If you consider the reactions after Siemens/Alstom and the French-German proposal, there was, within the competition community, a strong reaction saying, "No, no, no. We know how things are done best in competition law, and the French-German proposal is wrong for the following competition-specific reasons." With your wider background, do you feel that we should engage more with a wider range of stakeholders, and that there is a risk that we assume too much if we talk only within the competition community?

ISABELLE DE SILVA: The competition world really likes to debate, sometimes endlessly, about the Intel case and other things that we find fascinating, and maybe we don't spend enough time engaging with the rest of the world and explaining what we do. We must hear what is being said, and be able to provide answers. There were some excellent points made by, for example, the Economist about the value of the current system.

It is beneficial when players react and explain why the current system is good and why we must defend what is good about it. We shouldn't refuse the debate, because we will not be heard oth-

erwise. Engaging in the debate is something that Jean Tirole, among others, does very well in France. He's a strong advocate for competition with an open mind. The positive outcome of this debate is that there is a lot of discussion in France and Germany. We'll see what comes up in terms of political mandate for the next European Commission, and we intend to be active participants in that debate.

ANTITRUST SOURCE: We cannot talk with a European competition authority without talking about vertical restraints. That's on the forefront of everyone's mind.

To start with a concrete example, one decision last year that got a lot of attention was your decision in the Stihl case, where you decided that even for something as risky as chainsaws, a ban on online sales would be unlawful. From your practical experience, can you think of any product where you still might think that there could be legitimate reason to ban internet sales?

On chainsaws, for example, even the Bundeskartellamt, certainly not a very soft agency when it comes to online sales restrictions, once indicated that it might accept an online sales ban. But is there any space left? Or should we simply assume, regardless of what the product is, that internet sales bans are always unlawful, and a supplier might only regulate how the product is sold?

ISABELLE DE SILVA: What we did was really an in-depth analysis of the specifics of the case. We started from the point of view that online sales should be allowed whenever possible, because of the positive effects they have on competition.

We also took into account several elements. For example, we considered the security regulations applicable to those products in France and in Europe. There was no general rule saying you must get your product in person and receive a special training. We also took into account other specificities such as the fact, in some instances, those products were freely available in shops. This was a very fact-based analysis, and we found in the end that the policy of Stihl was contrary to competition law.

Another important side of this decision was the confirmation that it was possible to have selective distribution for those products. This element wasn't so obvious but, for different reasons, we concluded that the company had the right to have a restrictive distribution. We took into account the Coty judgment to try to reach a comprehensive decision that draws a broader picture than what's being said about Stihl. We are waiting for the decision of the court.

ANTITRUST SOURCE: There is also a particular French aspect to this. France is one of the centers of the European luxury and branded products industry. I could imagine that representatives of that industry probably would argue that it would be very procompetitive for them to have more control of their distribution systems. Do you get any pushback from these stakeholders against your enforcement approach?

ISABELLE DE SILVA: The question of the legal framework in a distribution system is extremely important. It's a very big field of the law. In discussions with companies, the Autorité has had for some time the point of view of defending selective distribution, but this wasn't always aligned with the views in Germany. We feel selective distribution can have some clear benefits for customers, like the presence of shops that fit certain standards and a quality sales environment. This has been quite a strong view in the agency before my time, and I feel it's good that Coty completely confirmed that view because there was a strong debate.

We will need more cases in the future to have a clearer overview. I'm not sure that this is the end of the debate. We'll certainly have other developments, maybe relating to cases in Germany.

ANTITRUST SOURCE: You mentioned before your advocacy efforts, which are one of your key activities. Could you provide us any good examples of some recent efforts where you provided input to the government and you actually saw some positive results?

ISABELLE DE SILVA: One of the best examples is the Macron law of 2015 that, effectively, created the possibility of coach transportation between the cities of France. It was something that had been forbidden in France, and the Autorité prepared an opinion saying we should allow competition. It offered the possibility to travel by coach, which was a sector of the economy that did not exist. New connections between cities were developed that didn't exist by train or by public coach transport, and many jobs were created as a direct effect.

The question of customer buying power is central in France today. All the reforms that can have a benefit for consumers are perceived to be quite positive.

Customers found a service that they liked. We saw that lots of students and retired people were taking those coaches because they were not time-constrained and they liked this mode of transport. Prices were also very low and attractive compared to train prices, which had gone up in France. This is a good example of a quick adoption by the law of our recommendations, just a few months after we issued the opinion.

There are other examples. The Prime Minister recently announced, in a speech he gave during the 10th anniversary of the Autorité, that he was finally opening the reform of the car spare parts that we had been advocating since 2012.

In France, visible spare parts are protected by patent law, and cannot be sold by other providers. For many years, the car industry has been active to prevent any change of law, and we have been saying that customers were paying much more in France than in other countries. But due to the on-going yellow vest movement, the issue has now become a priority for the government. The question of customer buying power is central in France today. All the reforms that can have a benefit for consumers are perceived to be quite positive.

I also think of two current examples. Next week, we will publish an opinion on the modernization and liberalization of the health industry in the field of distribution of medicine and biology laboratories. And we just issued an opinion on the audiovisual sector saying that the draft law under preparation by the government should be a very ambitious reform, and should do away with many of the restraints that create a competitive disadvantage between traditional broadcasters and big players like Netflix, Amazon, or Apple.

ANTITRUST SOURCE: The current government, the Macron government, promotes market liberalization as its flagship idea and wants to improve the competitiveness of the French industry. Has this changed the role of the Autorité? Do you get a more receptive audience now? Or is the regulatory culture just too deeply ingrained?

ISABELLE DE SILVA: Emmanuel Macron has had a huge impact as Minister of the economy because the Macron law of 2015 was one of the most ambitious reforms in recent years. The law also gave new powers to the Autorité to regulate legal professions, which was something that we didn't do before. This enabled us to also foster competition in those professions that were not open to new commerce.

ANTITRUST SOURCE: The legal profession is very much focused on issues like diversity and inclusion. This is perhaps an extra tough topic for the private sector, where progress is slower than in the public sector. Nevertheless, it would be very interesting to hear from you as a woman, as a female head of agency, how do you think about the issue? How is the situation, particularly at the Autorité? And what measures have you been taking to support female colleagues?

ISABELLE DE SILVA: I think that among competition agencies, we're in a pretty good place. Several women are heads of agencies like Margarida in Portugal, Margrethe in Brussels, or Alejandra in Mexico. We are already at a good level of parity between men and women.

The same is true for the Autorité. We have a fairly even 50/50 split between men and women at the staff level. At the higher level of management, we are fairly balanced as well. At the level of the board, we used to have more women than men and now due to a new law that imposes a strict 50/50 split, we've had to diminish the number of women! That's the paradox of the law that was meant to "protect women" and that, in some cases, might "protect men."

More widely speaking, I think that the competition law bar in France is maybe more gender-balanced than the M&A bar for example. Still, from what I hear from the lawyers' community, the next priority is really this issue of the number of women partners. I see lots of women practicing as lawyers, in-house counsel, and in universities. I supported the initiative Women @ competition because I think that everything that can help women empower themselves and move forward is important. The talent is really there.

I also feel that the Autorité offers a good balance between work and family life, this is also one of the reasons why we attract people from diverse backgrounds, including the private sector, and I'm very happy that our work conditions are so well perceived.

ANTITRUST SOURCE: From your own experience, what would be your advice to younger female competition lawyers? What are the key things to watch out to sustain a career and succeed as a competition lawyer?

ISABELLE DE SILVA: Women should maybe be more assertive and not let men have the monopoly of speaking out. I noticed at a hearing recently that only men were sitting in the front row and speaking, while female lawyers would sit in the back and not speak, although, I can imagine, they had been very active in preparing the case. There is a big responsibility from law firms to promote equal opportunities, including by offering opportunities to speak at hearings and before courts.

We are trying to develop internally at the Autorité ways to better help young women lawyers develop their career by giving them very practical tips and advice on how to seize opportunities. I think this is the type of thing that can really help, especially when a woman would hesitate to take a job because she's afraid that she might not be able to do it. Some encouragement is always welcome!

ANTITRUST SOURCE: Thank you very much for joining us. This has been very enjoyable and instructive. ●