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The Paris Court of Appeal upholds the fine imposed on Tereos Océan Indien for abuse of dominant position

On 3 July 2025, the Paris Court of Appeal (RG n° 21-21673) upheld decision n° 21-D-25 of the French Competition Authority (the "FCA"), which sanctioned Tereos Océan Indien ("TOI") for abuse of a dominant position on the market for molasses produced on La Réunion and sold to local distilleries.

The context: a local market under pressure

Molasses, a by-product of sugar production, is an important input for La Réunion's traditional rum distilleries. It is used by the three local distilleries, with over 99.5% of La Réunion's rum being produced from it. TOI, through its control of the island's only two sugar factories, holds a monopoly over local molasses supply. At the same time, these distilleries represent up to 90% of TOI's molasses sales, creating a mutually dependent relationship.

The case was initiated by the owner of one of the three distilleries, which claimed that TOI's contractual practices unduly locked it into supply agreements that prevented renegotiation and restricted access to alternative sourcing.

The establishment of the dominant position: the refusal to consider the countervailing buyer power

Despite the seemingly balanced dependency between the parties – often referred to as a "bilateral monopoly" – and the fact that the distilleries accounted for about 90% of TOI's molasses sales, the FCA, and now the Court, found that TOI retained a dominant position. The Court emphasized that:

- There is no viable alternative to local molasses for distilleries wishing to benefit from fiscal advantages and the protected geographical indication "*Rhum de La Réunion*";
- Distilleries cannot credibly threaten to switch suppliers or cease purchases;

TOI's ability to impose contract terms – such as a 5 million EUR early exit penalty – demonstrated its economic power and the lack of effective buyer counter-pressure.

The abuse of dominant position: discrimination rejected, lock-in sanctioned

The FCA initially raised two grievances:

- Discriminatory pricing in TOI's supply of molasses to different distilleries;
- Restrictive clauses in supply contracts that locked distilleries into long-term commitments.

While the first grievance was dismissed due to a lack of competitive harm, the Court agreed with the FCA that the second constituted an abuse of dominance.

The Court noted that the contract between TOI and the distilleries contained:

- A 5 million EUR exit indemnity, effective only every five years with a three-year notice period;
- A restriction on resale of molasses, limiting distilleries' ability to manage surpluses or source independently.

Although TOI argued that these clauses applied symmetrically, the Court concluded they disproportionately restrained the distilleries and prevented meaningful renegotiation, thereby undermining competition.

Penalties

The Court upheld the 750,000 EUR fine – the maximum allowed under the simplified procedure used by the FCA – imposed on TOI and its subsidiaries.

This decision is subject to legal remedy.

You can find the official FCA decision here and the official Paris Court of Appeal judgment here.