

4th April 2005 : Universal banking service and competition rules

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The *Conseil de la concurrence* issues its opinion at the request of the CLCV

The *Conseil* received a referral from the *Confédération de la Consommation du Logement et du Cadre de Vie* (CLCV, the Consumer Confederation for Housing and Living Environments), regarding the conditions in which a universal banking service might be set up, and whether such obligations would be compatible with competition rules. In response to the referral, the *Conseil* issued an opinion on 31st March.

The CLCV's request

In its letter of referral, the CLCV reiterates the *de facto* obligation for all consumers to have access to banking services, and the difficulties that some continue to encounter in both opening and maintaining an account. It also observes that a phenomenon of "bank exclusion" exists in France.

Under the terms of Article L. 462-1 of the code of commercial law (*code de commerce*), the CLCV asked the *Conseil de la concurrence* for its opinion on the "*conditions in which it might be possible to introduce a basic banking service, along the same lines as the existing universal services for telecommunications or electricity*". In particular, it asked the *Conseil* to examine whether and under what conditions such a service might be compatible with competition law.

General conditions for introducing a universal service

The universal service is a particular method of providing services of general economic interest. In the European Union, each Member State is free to define precisely what is meant by "general interest". It is therefore up to the national governments and Parliaments to judge the suitability and scope of any universal banking service: the *Conseil de la concurrence* has no jurisdiction to make such a judgment, which goes beyond a strict analysis of market competition.

The issue of introducing a universal service is raised only when the government considers that certain services are of general interest, and that the market does not offer these services or offers them according to conditions that the government deems insufficient. These conditions concern: free and universal access to the services, comprehensive geographic coverage, the level of quality, and the price, which must remain accessible.

Consequently, the *Conseil's* response to the question submitted by the CLCV is based on two suppositions: firstly, that the government has already decided to regard certain banking services as services having an economic general interest character; and secondly, that the government believes the banking sector - operating on a purely competitive way - is unable to meet demand satisfactorily in terms of free access, geographic coverage, quality and accessible prices.

The *Conseil* suggests that any analysis should take into account not only the problems encountered by certain consumers when attempting to open accounts (denial of access), but also their difficulties in maintaining accounts. These particularly include problems faced by consumers attempting to use certain payment methods, which are seen as essential (denial of use).

The introduction of a universal service is not in itself incompatible with competition rules, but it is then necessary to ensure that the mechanisms used to select operators and provide financing do not serve to distort competition in the banking sector.

The *Conseil de la concurrence* emphasises that any analysis of such a universal service's competitive impact will depend on the way the service's scope is defined. If a reasonably priced universal service is only open to a particular category of consumers, it will lead to the creation of two distinct consumer

groups, paying different rates for the same services, with the disadvantages linked to the introduction of thresholds.

If, on the other hand, the universal banking service is open to all with no conditions attached, it would be important to consider the potential disruption for operators of the competitive sector. If the universal service includes a wide range of banking services, there could be implications for competition and for the rates charged for services with non-regulated prices.

Regarding the implementation of universal service obligations, there are a number of possible pro-competition solutions, involving allocation mechanisms and financing methods. The *Conseil* looks at these solutions in its opinion.

The *Conseil* stresses that the theme of the universal service has been carefully studied from the point of view of economic theory, and the main advantages and disadvantages to the various methods of implementing are well documented. However, there is still no single model for a universal service. It is therefore not only possible, but even desirable from an economic efficiency standpoint, to adapt the system to the objective conditions of the national market, and to opt for innovative solutions where necessary.