New number system for directory assistance

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The *Conseil de la concurrence* has given ARCEP an opinion in which it stresses the risk of established operators gaining an advantage in the market. Having been referred to by the French telecoms and postal regulator ARCEP (the *Autorité de Régulation des Télécommunications*, ART has now become ARCEP, *Autorité de régulation des communications électroniques et des postes*) for an opinion on the conditions for ensuring fair competition during the transitional period leading up to the introduction of a single numbering format for all the directory assistance numbers which can be dialled up from a telephone, the *Conseil de la concurrence* has just released an opinion in which it examines the operation of the sector from the point of view of competition and stresses the risk of established operators gaining an advantage in the market.

Context: the discontinuation of number « 12 » and the introduction of a new numbering format

Having been referred to in the proceedings by Scoot France and Fonecta against an ART decision, the *Conseil d'État* (Administrative Supreme Court) passed a decision on 25 June 2004, in which it instructed ART to establish a new single numbering format for all the operators offering directory assistance services and to proceed with the changes to the numbering system until the number 12 is finally discontinued.

ARCEP has therefore developed a new single numbering format on the « 118XYZ » model which is intended to replace all the numbers currently in use.

To guarantee continuity and ease of access to the service previously provided

by the number 12, ARCEP has allowed for a transitional period, divided into four stages:

- 4 June 2005 (T0): allocation of numbers to 27 operators by drawing lots
- 2 November 2005 (T1): commercial launch of services
- 3 April 2006 : (T2): compulsory closing down of the services on the old numbers and introduction of an information disk
- 3 April 2007 (T3): technical close down of the old numbers

ARCEP has asked the *Conseil de la concurrence* for an opinion on the operation of the transitional phase between the old and new numbering format, and more particularly on the conditions required to ensure fair competition during this phase.

The risk of operators already established gaining an advantage in the market

The change in the numbering format would have a profound effect on the competitive environment of the sector. The operators which have historically been engaged in providing directory assistance will in effect lose the benefit of numbers which are well known to users. Once this barrier has been removed, the reform will encourage large-scale players specialising in the provision of telephone directory assistance, already operating on several other European markets, to enter the French market.

Nevertheless there is a very real risk of established operators gaining an advantage in the market, particularly because they already have a market presence as network operators, as well as providing directory assistance services. The conditions of access for new entrants to services which only the network operators are in a position to supply (disclosure of lists of subscribers, access services, invoicing for the account of third parties) will have to be monitored.

This supervision will need to focus in particular on the problems of access to the telephone operators' networks, the tariffs for this access and retail tariffs of the

operator of the overall service. In this respect the Conseil de la concurrence stresses the need to set up separate accounting within the integrated operators, in order to be able to check that there are no discriminatory pricing practices in respect of certain competitors, nor any cross subsidization.

The supervision and control of communication policies during the transitional phase

During the phase for setting up the new numbers, certain operators who are already established could also use subscribers' contact details which they alone have access to as network operators, in order to promote their own services and in particular to make their new number familiar and thus gain an advantage with a fairly large share of the market for directory assistance.

The acquisition phase plays a very important part in the subsequent operation of the market: for this reason it is essential to pay particular attention to the communication strategies of operators during the initial months of launching new services.

- *The* Conseil de la concurrence *therefore recommends, as a precaution, that references to the « 12 »* as well as other « historical » numbers *should be avoided* in the promotional campaigns launched by operators.
- *It also recommends that potentially anticompetitive practices on the part of established network operators should be closely monitored* : such as, for example, in the case of discriminatory use of back up material and equipment held for the purposes of providing a universal service (paper directory « white pages », telephone kiosks), the sending of short « targeted » text messages (sent for example after a network operator has detected a call to a number of the 118XYZ type) ; the automatic pre-registration of an operator's number on the subscriber's SIM card, the enclosure of promotional documents with invoices or the transmission of an advertising message when calls are made to the old numbers.
- *The* Conseil *finally finds that there is a risk of information to the consumer being distorted for anticompetitive purposes and advocates that the regulator should monitor, and even control the process of provision of information relating to the change of number in order to guarantee fair competition,* both as

regards the contents of the information and the media used, which would accordingly reduce the risks of confusion between the provision of information and advertising. In any case, it could not be considered justified for the resources established by the holder of the universal service to meet its obligation of providing information, to have the effect of restricting the free play of competition, other than in the provision of details which are strictly necessary.