

18 January 2006: Use of "Numéro vert", "Numéro Azur" and "Numéro Indigo" commercial designations by competitors of France Télécom

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Following an agreement between France Télécom and Cégétel, the provisions of which have been extended to cover all operators, the Conseil de la concurrence has decided to close the proceedings

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In a decision dated 17 January 2006, the Conseil de la concurrence duly noted the decision by the company Cégétel to withdraw its complaint in a case concerning the conditions in which France Télécom used the designations "Numéro vert", "Numéro Azur" and "Numéro Indigo" for marketing so-called "freephone" or "shared cost" services.

Background of the case

In its decision 03-MC-02 of 5 March 2003, in which it granted Cégétel interim measures, the Conseil expressed a number of competition-related concerns.

In particular, it had taken the view that there were no grounds for ruling out that France Télécom's behaviour could have had "the aim and/or the effect of distorting competition with regard to alternative operators and to impede the opening of the market for special services", because this behaviour contributed to complicate the implementation of portability for the corresponding numbers run by competing operators, by restricting the use of the commercial designations "Numéro vert", "Numéro Azur" and "Numéro Indigo".

On May 10th 2005, following a series of exchanges with the Conseil's

investigative services, France Télécom offered certain commitments in an attempt to have proceedings discontinued. These commitments were published on the Conseil's website and examined at a hearing on July 20th 2005.

In the light of the observations gathered during the public consultation phase and an analysis of the state of competition in the markets concerned, the Conseil took the view that the proposals were insufficient to allay all of the competition concerns raised, and refused to order a discontinuance of proceedings.

The draft agreement between France Télécom and Cégétel

Subsequent to the session on July 20th 2005, the parties came together to eventually finalize a negotiated agreement, the provisions of which constitute a substantial improvement on the initial set of commitments proposed by France Télécom, from the point of view of the comments made in debates before the Conseil de la concurrence.

The incumbent operator notably agreed to:

- amend its current and future Numéro Accueil contracts, to enable customers who decide to transfer their call number to Cégétel to sell their remaining stocks of products bearing the designations "Numéro Vert", "Numéro Azur" or "Numéro Indigo";
- allow Cégétel's customers access to its "Numéro Vert" and "Numéro Azur" brand names under the terms of a general licence agreement (France Télécom's initial proposal only covered the "Numéro Vert" designation and was only granted under individual licence agreements).

At the Conseil's request, the provisions of this draft agreement have been extended to cover all operators

In accordance with the Conseil de la concurrence's wishes, France Télécom agreed to extend these provisions to all third party operators.

The incumbent operator carried out its commitment by sending letters to third party operators, and by publishing a release on its website. The Conseil duly noted these actions by the operator.

Consequently, considering that the competition concerns it had previously expressed have now been satisfied, the Conseil de la concurrence decided to close proceedings.

The Conseil continues however to keep a close watch on the state of competition in the sector for special telecommunications services, and is awaiting in particular the results of the market analysis conducted by the ARCEP (the French Telecommunications Regulator).