12 February 2008: Very high speed internet

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The Conseil de la concurrence does not order interim measures against France Telecom for deploying its fibre-optic network
However investigation on the merits of the case carries on

>French version

Free company charges France Telecom for abuse of dominant position in refusing to give its competitors access to its civil engineering infrastructures, which would allow them to deploy their own fibre-optic telecommunications network. In June 2007 Free submitted a referral to the Conseil on the merits of the case and added a request for interim measures.

The Conseil issues its decision today, dismissing the request for interim measures but deciding to investigate further on the merits of the case.

The deployment of a fibre-optic network, a major issue for the sector's players

The transmission quality of fibre-optic gives users access to 'very high speed internet' as well as new additional services (high definition on one or more TV sets, video immediate loading, videoconference, etc). In the future, optical fibre should replace the copper wire pair of the current local loop.

The emergence of a new technology and the presence of several operators on the market should allow a competition via infrastructures, every operator deploying its own fibre-optic network until users. Compared with the current

situation, where all operators use France Telecom's copper local loop, the operators would control the whole technology and the services offered.

In order to set up the new local loops, operators have two options: either dig trenches in the streets or use existing infrastructures. The last solution reduces the deployment's costs and times very significantly. At local level, some underground infrastructures such as Paris sewerage system or cable operators' networks allow the setting up of optical-fibre. However none of these infrastructures can be compared with the one of France Telecom, which has a civil engineering network of over 300,000 km, which were inherited from its former public monopoly status.

The Conseil does not order interim measures but carries on the investigation on the merits

The Conseil de la concurrence considered that France Telecom's holding of civil engineering infrastructures is likely to give the company a particular responsibility, notably including not to distort the play of competition on the very high speed budding markets in keeping for itself the use of the infrastructures and refusing its competitors to use them, or giving them a discriminatory access. And yet in Spring 2007 France Telecom started to deploy optical fibre in its civil-engineering infrastructures with the copper local loop, while postponing its response to competitors' request for having access to the same infrastructures. As a result, the Conseil decided to carry on with the investigation on the merits of the case.

Nevertheless, the Conseil de la concurrence decided not to order interim measures, considering that there was no serious or immediate infringement to the sector. The Conseil noted that since October 2007 France Telecom had committed itself before the ARCEP (French Telecommunications and Posts Regulator) to elaborate an access offer to its wires, which should normally lead to an operational offer in Summer 2008. The Conseil notes that the first tests seem to globally satisfy alternative operators.

Besides, no element currently accounts for a massive deployment of France

Telecom's fibre-optic network beyond the operator's public announcements, indicating its will to pre-empt the market.