

# 1 April 2008: Premium Telephone Services

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## **The Conseil is in Favor of Creating a Wholesale Mobile Telephone Services Market and an Ex-Ante Regulation of This Market**

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Following a request for opinion by the Association of Information for All (ADRT) (1) on how to improve competitive conditions in the retail premium telephone services market (i.e., services offered to telephone numbers 08ABPQ, 118XYZ or 3BPQ that charge a fee), the Conseil de la concurrence issued an opinion on March 31 providing an analysis of the markets in question and the existing sectoral regulatory mechanisms.

**The premium telephone services markets are characterized by limited competitive pressure both with respect to the services themselves and the calls to the services, when they are billed separately as is the case when they are made from mobile telephones.**

While consumers have no other choice than to call telephone numbers that charge a fee in increasing numbers of situations (this includes, for example, telephone directory services, weather information services, hotlines, nationwide telephone numbers enabling companies to bypass area codes, etc.), there is not enough competitive pressure on rates or price transparency for consumers.

This is especially the case for calls made from cellular telephones because the amount billed is in fact the combined total of several separate charges: the price of the service provided (billed by the content provider), which itself includes a per call charge and a per minute charge and the cost of the call (known as the

airtime cost which is charged at the cellular telephone companies' rates).

Mobile telephone operators exert very limited competitive pressure on prices. The rates applied for calls to the toll charging numbers are not decisive in consumers' choice of a mobile telephone operator, given the marginal share of the mobile telephone expenses that they amount to.

Lawmakers recently passed legislation on wholesale mobile communication rates for calls to telephone information services that requires cellular telephone companies to include these calls as part of their packages, just like interpersonal communications, which Orange and SFR – but not Bouygues Telecom – already did (pursuant to the Act passed on January 3, 2008 on making consumer services more competitive). This legislation means that these calls will benefit from the same competitive pressures as those exerted on the core services offered by mobile telephone operators.

However, more extensive retail price regulation can be justified only in special cases where no competition is liable to exist. In all other cases, the Conseil held that regulations appropriate to the underlying wholesale markets are preferable.

### **The Conseil de la concurrence favors the introduction of a wholesale market for outgoing calls from mobile telephone networks and their ex-ante regulation**

The sale of wholesale telephone services to service providers, a practice that fixed telephone operators currently engage in, would create, for the benefit of consumers, increased competitive pressure on certain calls to premium telephone services for which there are competing services. In the new configuration, premium telephone service providers would take over control of the total cost of the call for the consumer.

The benefit of this pricing model is that it would be clearer for users. But it would not have an impact on the price of those services for which there is no competition, especially in the case of calls to toll charging nationwide telephone numbers introduced to bypass area codes and that are the only way to reach

certain business services such as hotlines. In this regard, the Conseil de la concurrence highlighted the fact that protecting consumers from abuses observed would require, for this particular case, that other solutions be found.

In light of the fact that the emergence of wholesale outgoing call offers on mobile telephone communications networks to premium telephone services cannot be expected solely as a result of the competitive functioning of the markets – since each mobile telephone company occupies a monopolistic position in its network for outgoing calls to premium telephone services – the implementation of such a service justifies the introduction of transitional ex-ante obligations. These obligations should however take into account special profitability constraints and incentives to invest in mobile networks, especially when there are prospects for new market entrants.

(1) L'association des Renseignements pour Tous (ADRT) is an industry organization whose members are telephone directory services. Its current members are the Yellow Pages (Pages Jaunes), Telegate 118 000 and 118 218 Le Numero.