19th March 2009: Marketing of wholesale broadband offers

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France Télécom makes commitments before the *Autorité de la concurrence*, designed to improve the quality of services provided to third-party operators in France's overseas *départements*

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Following a complaint by the company Mediaserv, the *Autorité de la concurrence* has issued a decision accepting the commitments made by France Télécom. These commitments will improve the quality of broadband services available to Internet users in France's overseas *départements*.

Mediaserv's complaint: the poor quality of France Télécom's after sales service to third-party operators

Mediaserv sells ADSL services in France's overseas *départements*, mainly by the way of a wholesale broadband offer called "*offre d'ADSL nu*", or "basic ADSL offer", which the incumbent operator has been providing to the alternative operators since 2007. In May 2008, the company filed a complaint with the *Conseil de la concurrence* (which has since become the *Autorité de la concurrence*) concerning the quality of this service.

The complaint notably concerned the lack of services required to maintain broadband in proper operation in France's overseas *départements*, principally due to the time difference between the Caribbean and mainland France. Mediaserv claimed that France Télécom's failure to resolve these issues promptly was responsible for the high level of incidents reported and the excessive time taken to restore service.

The competition concerns expressed by the *Autorité de la concurrence*: France Télécom must put in place the systems needed to resolve quality problems, taking into account the distance between the overseas *départements* and mainland France

Generally, it is the responsibility of the industry regulator - in this case ARCEP - to work with all the operators concerned, to look for ways of improving the quality of wholesale broadband services.

However, if the quality of services provided under wholesale broadband offers in France's overseas *départements* is poor, this can distort competition in the retail market at the expense of new entrants. This is particularly true, as France Télécom holds a 75% share of the market in France's overseas *départements*, and enjoys the reputation that comes with it status as incumbent operator.

In particular, if the alternative operators in France's overseas *départements* encounter difficulties obtaining swift action from France Telecom to resolve technical problems that may occur on lines deployed with their clients, this may harm their commercial image. In this respect, the investigative services found that the distance and time difference with mainland France should be taken into account by France Telecom in the organization of its after sales service for wholesale offers.

On the other hand, the high incident rate itself may be due to a range of factors (weather conditions, state of the telephone network) that cannot be directly attributed to anticompetitive behaviour by the operator in a dominant position. Consequently, France Télécom was not asked to offer a commitment to lower this rate.

Commitments that will enable the operators to improve the quality of services offered to consumers in France's overseas *départements*

To compensate for the disadvantages caused by the time difference, France Télécom has committed to maintaining a specific unit for dealing with incidents ("Gamot" unit), dedicated to telephony operators based in the Caribbean (Guadeloupe, Guyane and Martinique). The unit's role will be to deal with

problems reported to it by email and telephone during office hours, not currently covered by the unit in mainland France.

France Télécom has also made the commitment to keep a representative from its specialist third party operator relations division in the Caribbean, and to appoint a new representative in Reunion.

In addition, France Télécom will provide the *Autorité de la concurrence* with indicators, to enable it to verify that the quality of its wholesale broadband offers is commensurate with that of its retail offers in France's overseas *départements*.