

22 January 2015: Telecoms – Overseas Mobile Telephony

Published on January 22, 2015

Acquisition of SFR by Numericable.

The Autorité de la concurrence opens ex officio proceedings to review the conditions under which Numericable complies with its commitment to divest Outremer Telecom's mobile telephony activities in La Réunion and Mayotte.

> *Version française* 

On 30 October 2014, the Autorité de la concurrence cleared SFR's acquisition by Numericable, a subsidiary of the Altice Group, subject to several commitments¹. The commitments included the divestiture of Outremer Telecom's mobile telephony business activities (marketed under the Only brand) in La Réunion and Mayotte. Today, the Autorité opens proceedings to review the conditions under which this commitment is being implemented.

Numericable's commitments in La Réunion and Mayotte

When it cleared the transaction Numericable/SFR, the Autorité found that in La Réunion and Mayotte in particular, the overlapping activities of SRR, SFR's subsidiary, and Outremer Telecom, controlled by Altice, would give Numericable significant market power in mobile telephony in the Indian Ocean (66% market shares in La Réunion, 90% in Mayotte).

To address these concerns, Numericable committed to:

- divest Outremer Telecom's mobile telephony business (Only) in La Réunion and in Mayotte;

- maintain the viability, market value and competitiveness of those businesses until the divestiture.

The recent increase in subscription prices for mobile services concerned by the divestiture

While the divestiture process remains underway - several bids for the divested assets have been made - the Autorité, which will be called upon to approve the purchaser, expresses concerns about the conditions surrounding the divestiture.

In November 2014, Outremer Telecom informed its clients that it would increase subscription prices for its main mobile phone services. This increase concerns both new subscriptions and ongoing ones as from the 1st of January 2015. The RIFE 2h, Trio, Jeune, Next, On, Next2 Illimité offers are concerned.

Those price increases mean that subscribers can freely terminate their current service plan.

The Autorité's Board decided to open ex officio proceedings to assess whether this increase is in compliance with Numericable's commitments to preserve Outremer Telecom's mobile telephony business's viability, market value and competitiveness until the divestiture.

The Board's decision to open proceedings will not affect its final assessment in this matter, in accordance with applicable merger control rules.

[1] See decision 14-DCC-160 and the related press release dated October 27, 2014

[2] When the Autorité notes that a firm has failed in its obligation to comply with commitments made within the framework of a takeover or an acquisition, the French Code of commercial law empowers it to:

- *withdraw the decision authorizing the transaction thus requiring from the firm to renotify the transaction within one month, from the date of withdrawal on, or to reverse to the previous state observed before the deal (See for instance Broadcasting – pay television case when The Autorité withdrew the decision authorizing the acquisition of TPS by Canal Plus Group / press release dated 21st September 2011)*
- *order the firm to comply with the commitments and pay penalties for non-compliance in the event of a delay in execution.*

- *issue fines which may amount up to 5% of the French turnover of the firm.*