28th November 2002 : Orange France renounced to overcharge the calls of its consumers towards its competitors, the Conseil de la concurrence decided to close the case

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> Version Française

On September 15 2002, *Orange France*[1], implemented a new call billing system: the per second billing (the call is billed per second and not per minute) which included an important complement to the billing for the calls towards the *SFR*[1] and *Bouygues Télécom*[1] lines. The case was referred to the Council by *Bouygues Télécom* and by two French consumer associations (*UFC Que Choisir* and *CLCV*). The referrals were matched by the requests of interim measures[2], which consisted, for the main part, to enjoined *Orange France* to stop overcharging calls towards the rival networks.

On November 7 2002, some days before the hearings of the Council on the case, *Orange France* announced that it removed the questioned tariff offers. *Bouygues Télécom* withdrew its referral on November 8 2002; consumer associations maintained theirs.

In its decision, the Council did not exclude that the practices in cause were anticompetitive. But, taking into account their short-lived character, it considered that these practices were not able to produce significant effect on the market. The Council thus decided to close the case and rejected, consequently, the requests of interim measures.

Remarks :

1. *Orange France*, *SFR*, and *Bouygues Télécom* are the main French mobile communications companies, respectively subsidiaries of *France Télécom*,

Cegetel and *Bouygues*.

2. If the originator of a referral considers that the alleged practices pose a serious and immediate threat to competition, he (or she) may request the Council to take interim measures, which may be adopted by using a fast track procedure. They consist in ordering companies to suspend the practices concerned or to re-establish a previous situation.

Before examining the admissibility of an interim measures request, the Council verifies if the referral is admissible, which consists in making sure that the facts are supported by sufficient evidence.