7 June 2007: The Conseil de la concurrence orders France Télécom to end its eviction practices on the market of engineering, consultancy and checking of private telephone installations

Published on June 08, 2007

>Version française

Following a referral of November 2006 by the company Solutel, the Conseil de la concurrence has handed down a decision, which sets out the interim measures applicable to France Télécom.

Offering services of engineering, consultancy and checking of telephone installations implemented by property developers in the regions of Brittany and Pays-de-la-Loire since 2004, Solutel accused France Télécom of implementing against the company, disparagement practices, having created a price barrier aimed at preventing the expansion of the company on this market and for exerting pressure and retaliation measures against its customers. Solutel also requested interim measures.

The sectors of engineering, consultancy and checking of private telephone installations

The code for town planning holds that promoters or property developers are bound to create, at their expense, under the control of the authority which issues planning permissions, the necessary infrastructures allowing the connection of their building or estate to gas, electricity and telecommunications network and to ensure the “connection of pieces of equipment, adequate for the operation on

the existing public equipment attached to the land" according to the respect of current standards. Solutel offers its services on the market of engineering, consultancy and technical checking of private telephone installations for private individuals, where it constitutes France Télécom's only competitor to date.

The denounced practices

Elements of the file show that the services of France Télécom's regional unit of Brittany exerted pressure
directly on Solutel's customers in order to convince them to resort to the services of this unit.
They also show that Solutel was subjected to repeated disparagement practices by the regional unit's services, which challenged, in front of its customers, Solutel's capacity to provide reliable services. The regional unit of Brittany applied to Solutel a high level of prices for determining "connection points" (location where the telephone installation built by the promoter of the estate or the building is connected to the public network), while the unit did not charge its own customers for it and the price was not applied to the rest of the national territory.

In certain cases, France Télécom required Solutel's customers the payment of services that Solutel had already provided, forcing Solutel to pay France Télécom's estimate. Otherwise France Télécom would refuse the telephone connection.

Moreover, significant delays were observed in the final connection to the telephone network of residents of estates or buildings, where Solutel had intervened.

These practices aimed at evicting or deterring any competitor from entering the market, justify the interim measures

The Conseil considered that the practices were likely to constitute an abuse of the monopoly position held by France Télécom, as an operator responsible for universal service, on the market for connection. The Conseil also considered that the price charged for determining the location of the "connection point" was

applied in a discriminatory way.

According to the Conseil de la concurrence, the practices may deter promoters, property developers or surveyor agencies from resorting to Solutel. The Conseil noted that some of them had already informed Solutel of their intention to stop their collaboration should the encountered problems persist.
Noticing that there is a serious risk that Solutel disappears, as it is currently the only competitor of France Télécom and represents a new entrant on the market concerned, and furthermore that the practices hinder the development of all competition, to the detriment of the consumer, the Conseil ordered France Télécom to:

· stop any disparagement practice towards the company Solutel
· suspend, on a interim basis, the application of the price for providing the location of the connection point.
· respond to communication requests concerning the connection point and to connect subscribers as rapidly as possible
· stop any practice consisting in requiring from Solutel's customers or residents of sites where Solutel intervened, the payment of services already carried out by the company.

Unofficial document, for media use only, which does not bind the Conseil de la concurrence.

> Decision 07-MC-03 relative to a request for interim measures from Solutel

> See decision of the Paris court of appeal (13th July 2007)