17 September 2009: Mobile telephony on Reunion and Mayotte

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The Autorité de la concurrence imposes emergency measures on SRR in order to re-establish competition on Reunion and Mayotte before the holiday season

> *Version française*

After a referral firstly by Orange Réunion and Orange Mayotte, and secondly by Outremer Télécom, the *Autorité de la concurrence* issued a decision in which it declares the application of emergency measures on SRR (SFR subsidiary), pending its decision on the merits.

SRR, incumbent operator on Reunion and Mayotte

Three mobile operators are active on Reunion and Mayotte: SRR, Orange and Outremer Telecom.
SRR, a subsidiary of the mainland operator SFR, was the first to offer mobile telephone services on Reunion Island as of 1996 and on Mayotte as of 2002. With a monopoly on Reunion until 2000 and until 2006 on Mayotte, SRR still holds approximately 65-70% of the market as compared to Orange (approximately 25-30%) and to Outremer Télécom (approximately 5-10%).

The practices denounced by the referring parties

The operators Orange (Orange Reunion and Orange Mayotte) and Outremer Télécom claim that SRR is abusing its dominant position by applying abusive

rate differentiation (i.e. that does not correspond with costs) between “on net” calls (within the same network) and “off net” calls (to another network) (1) in virtually all offers proposed to its customers.

Practically speaking, the consequence on this pricing is to render calls placed within the SRR network attractive and to create an image that the other operators are particularly “expensive to call”. This therefore serves to mechanically promote the largest network while generating an artificial “club effect”:

• firstly, at the time of their initial purchase or of a renewal, consumers will have a tendency to favour the largest pool of users, while appreciating the possibility of calling and being called at a lesser cost by the largest possible number of correspondents;

• secondly, SRR customers are encouraged to limit the volume of calls placed to a competing operator and to encourage their friends and relatives to use the same operator as they do.

The referring parties further claim the same discriminatory pricing practices between “on net” and “off net” SMS.

A situation that appreciably hinders competitive dynamics

These practices have a significant impact on the ability of other operators, and of Outremer Télécom in particular, to provide lively competition on the mobile telephony service markets on Reunion and Mayotte.

While the size of SRR naturally allows it to benefit from a “club effect”, price differences between “on net” and “off net” calls and SMS, that do not seem to be justified by underlying cost differences, artificially strengthen it by enhancing the attractiveness of “on net” calls on the SRR network. Such practices are likely to lead to the marginalizing of the offers of competing operators.

SRR has strengthened this “club effect” by carrying out advertising campaigns

that notably focus on the benefits of the biggest network's "on net" pricing: one of its advertisements notably focused on the fact that the benefit of less expensive "on net" calls was a significant advantage, given that this allows one to call 560,000 numbers on Reunion (out of approximately 800,000 lines at the time).

The Autorité considers that emergency measures are required so as to strengthen competition

The mobile market within the Reunion-Mayotte zone is at a crucial period - progressive deployments of 3G networks by mobile operators, arrival on the market of attractive terminals providing easy access to the Internet and to data exchange applications, while the year-end holidays are also a decisive time for operators. Within this outlook, it is crucial to ensure that the position of the SRR company can be challenged under effective conditions by alternative operators.

The injunction

The pricing difference applied in favour of calls within the same network as that of the caller provides an unjustified advantage to the operator with the largest number of subscribers.

In order to curtail this distortion of competition, the Autorité de la concurrence requests the discontinuation of the price gap over and above the costs borne by SRR for both types of calls. SRR will therefore now have to propose offers (pre-paid, complete package, "Maxxi" and frozen accounts) to its customers that do not discriminate according to the network being called, except as reflects the cost differences borne by SRR.

While such a measure could require SRR to increase the cost of its "on net" calls in the short term, the resulting competitive pressure will compel SRR to propose attractive and innovative offers in order to maintain its market position, for the greater benefit of consumers on the islands of Reunion and Mayotte.

(1) Schematically, a mobile call consists of a call initiation and a call termination.

For an “on net” call, the call initiation and the call termination occur on the same network and the operator therefore has only to bear two internal operations. For an “off net” call, the caller’s operator provides the call initiation and then hands over to the called party’s operator, that looks after the call termination. The called party’s operator will invoice this call termination service to the caller’s operator. As such, for an “off net” call, the operator will have to provide the call initiation and then purchase a call termination service from a third party operator.