

11th May 2005 : Markets for geographic call termination on alternative landline networks

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The Conseil de la concurrence favours ex ante intervention by the ART to guarantee that the geographic calls termination tariffs practised on alternative landline networks are not excessive in nature

In accordance with the markets analysis procedure set up by the code of postal and electronic communications, the *Conseil de la concurrence* has issued its opinion regarding the market for geographic calls termination on alternative landline networks, as requested by the *Autorité de Régulation des Télécommunications* (Telecommunications Regulation Authority) on 21st March 2005. This opinion completes opinion 05-A-05 regarding the markets for geographic calls termination specifically on the France Télécom's network, and is the fifth of its kind to be issued by the *Conseil* under this procedure (see opinions [04-A-17](#), [05-A-03](#), [05-A-05](#), [05-A-09](#)).

The Conseil de la concurrence confirms the ART's markets' definition

When an operator routes a call from one of its own subscribers (calling party) to another operator's subscriber (called party), it must purchase a call termination service from that operator, which then sells a service consisting in terminating the call on its network.

The *Conseil* shares the analysis of the ART, which takes the view that termination services for calls to geographic numbers, supplied by a local loop operator on its own network, constitute a pertinent market. Indeed, from the point of view of the purchaser, termination of a call to a given number can not

be substituted by termination of a call to another number. Operators never have any choice over the numbers dialled by their calling subscribers.

Moreover, and even if the entry into the market of ADSL telephony offers has increased the number of situations where a subscriber can be called either on a geographic number or on a non-geographic number (such as 087B-type numbers), the Conseil believes that the competitive pressure liable to apply between the tariffs charged for terminating calls to geographic numbers on the one hand, and non-geographic numbers on the other hand, appears too weak for these services to be considered as belonging to the same pertinent market, whether the tariffs are fixed by the same operator or by two different ones.

The *Conseil de la concurrence* takes the opinion that alternative operators exert a significant influence on these pertinent markets

Like the ART, the *Conseil* observes that each alternative operator occupies a monopoly position in the termination market, on its own local loop, for calls to geographic numbers, which leads to a strong presumption of power of the alternative operators.

Theoretically, this power could be counterbalanced by the purchasing power of France Télécom, which remains, with 96% of volumes, the main purchaser of calls termination from alternative local loop operators. However, France Télécom's purchasing power is limited by the fact that like all telecommunications operators, it is required to terminate calls made to its competitors' networks.

By passing on the differences in call termination charges in its retail prices, France Télécom could restrict rises in the call termination tariffs charged by local loop operators, who would not want to be seen as expensive networks.

Nonetheless, the *Conseil* emphasises that such a differentiation raises serious difficulties, particularly regarding consumer information. Indeed, when a consumer places a call, he has no way of knowing which operator his correspondent holds a subscription with, since the current dialling codes for geographic numbers are determined by the location of the correspondent and not by the operator responsible for "*terminating*" the call.

To guarantee that the tariffs charged for terminating geographic calls on alternative landline networks are not excessive in nature, the *Conseil de la concurrence* favours *ex ante* intervention by the ART

The *Conseil* would like to see the regulator take action to guarantee that the tariffs for terminating geographic calls on alternative landline networks are not excessive in nature. However, it emphasises that any such regulation must:

- ensure the players concerned as much prior warning as possible,
- respect the specific features of the alternative operators' business model,
- promote effective investment in the local loop, which remains underdeveloped in France.