

20 November 2006: Broadband Internet

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Conseil de la concurrence to lift ex ante regulation on the market for national broadband access

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As part of the market analysis procedure set up by the code of postal and electronic communications law, the Conseil de la concurrence, which was referred to on 25 and 6 October 2006, has just given the ARCEP (electronic communications and postal Regulation Authority) an opinion on its decision project relative to the market for broadband access delivered on the national market ("12 bis" market). This opinion is the tenth (1) given by the Conseil as part of the analysis process of electronic communications market resulting from community guidelines adopted on March 7th 2002.

The ARCEP considers not to renew the regulation system adopted on this market on 28th July 2005 on a temporary basis. The system validity was then limited to a year.

The Conseil considers, similarly to the ARCEP, that ex ante regulation on this market cannot be justified given the developments observed on broadband wholesale markets

In its previous opinion 05-A-03 of 31 January 2005, the Conseil declared it was in favour of ex ante regulation of wholesale offers on broadband Internet markets, as a result of the dominance of France Télécom on the markets and the risks particularly linked to the reintegration of Wanadoo into France Télécom.

Almost two years later, the Conseil considers that this exceptional treatment, in relation to competition law, is not justified for the "12 bis" market of broadband

access delivered at national level, notably as a result of the development of France Télécom competitors and merger and vertical integration movements recently observed in the sector.

The Conseil encourages the actual setting up of a separate accounting imposed on France Télécom

If the Conseil considers that competition law is now able to solve market weaknesses, however it observes that the efficiency of its own action largely depends on the actual setting up of obligations concerning cost accounting and separate accounting imposed transversally on France Télécom. It is therefore imperative and urgent to accelerate the validation and audit schedule of separate accounting.

(1) See opinions: [04-A-17](#), [05-A-03](#), [05-A-05](#), [05-A-09](#), [05-A-10](#), [06-A-01](#), [06-A-05](#), [06-A-10](#), [06-A-11](#)