



SFR RESPONSE TO THE ERG WORK PLAN 2010

November 2009

SFR would like to thank the ERG for giving them the opportunity to comment on its work program for 2010 which will undoubtedly be a busy year ahead, taking into consideration the new institutional reforms.

However, while the ERG is known to play an increasing role in the Europe, SFR would like to highlight two issues that seem to have been left out of the draft WP but which are nevertheless of paramount importance to guarantee competition.

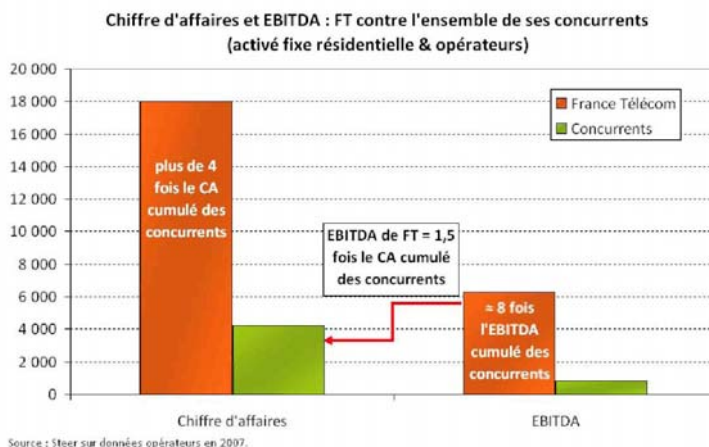
Indeed, even after over 10 years of liberalization of the fixed market, huge disparities still remain in almost all over Europe, between incumbents and competitors, both in terms of market position as well as financials.

Despite 10 years of regulation, the incumbents still retain almost the entire market share for the fixed telephone market and managed to have on average 50% MS in the broadband market, deemed to be among the most competitive markets.

Even more worrying is the fact that:

- . Alternative operators repay 50% of their turnover to the incumbent
- . The situation could worsen with the development of the NGA.

The French model, often used as a term of reference is nonetheless a perfect illustration of this disparity:





Therefore, SFR urges ERG to take this opportunity to take a stance, in cooperation with the EC, and produce more detailed guidelines on:

Methods for valuation of the local loop:

Cost orientation obligations have undeniably played a role in the launch of unbundling and indirectly in broadband.

Today, since it is clear that copper networks will not be replenished, it is now time to look at the methods of tariff calculation for access to make sure they are set correctly, taking into account a reasonable period of time for depreciation of investments and avoiding that competitors pay unduly for replenishments that may not indeed happen, or which would be fiber based.

Measures to prevent incumbents from excessive returns on copper are essential to incentivise investment:

The elimination of the excess margins granted to the incumbent via tariffs for access to (copper based networks) would incentivise long-term investment in future networks and free up cash for competitors to invest as well. **SFR would like the ERG, if needed in co-operation with the EC, to publish more detailed guidelines on the valuation for the local loop, or the very least at civil engineering works level.**

Along with more consistent methods of calculating costs, **SFR recommends particular attention be paid to the monitoring and setting up of Regulatory Accounting mechanisms, including timely publication of accounts and the guarantee that NRAs have the means to deal with recognized problems.**

Implementation of non-discrimination:

The business of alternative operators is further complicated by discrimination in providing services, and lack of accounting transparency. The principle of non-discrimination has been repeatedly pointed out as a being paramount to regulation during the EU Regulatory Review, including via the establishment of functional separation as a new obligation. In order to guarantee an effective implementation of the non-discrimination principle by the NRA's, it would be useful if the ERG provide much more precise guidelines on this issue.