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Competition Commission investigates Mauritius Telecom over MyT offering

The Competition Commission of Mauritius (CCM) today announced an investigation into Mauritius Telecom's MyT offering under the Competition Act 2007.

MyT is a 'bundled' product offering high-speed internet access, TV, international calls and other services as a package. The Competition Commission is concerned that Mauritius Telecom might be using its effective monopoly of the ADSL (broadband internet) products to gain a competitive advantage in the sale of competitive products such as TV services and international calls. This could take the form of refusal to supply the higher-speed ADSL products except as part of a package, or for example through pricing the MyT bundle against the "ADSL-only" service in a way that unduly influences customers to choose MyT.

The investigation is being carried out under the "monopoly situations" provisions of the Competition Act. If following an investigation and report by the Executive Director, the Commission finds that MT's actions have the object or effect of "restricting, preventing or distorting competition", then the Commission can impose remedial measures on MT. Whatever the outcome, there is no possibility of any financial penalties being levied in this case, as these relate only to collusive agreements *between* several competing companies.

John Davies, Executive Director of the CCM said:

"Several people have come forward to express concern about MT's 'MyT' offering. The package mixes together broadband internet – a product in which MT has a monopoly - with products such as international calls and TV services, in which it competes with other companies. There is nothing necessarily wrong with that. Such packages might be in the interests of vigorous competition and convenient for customers. But if customers are unduly influenced towards buying TV services and international calls from MT, just because of its broadband monopoly, that could damage competition in those markets. I decided that we needed to investigate this matter in detail, in order to understand whether the current offering has anti-competitive

effects. I look forward to working with MT, its competitors, ICTA and other interested parties on this matter."

The CCM has a memorandum of understanding (MOU) with the Information and Communications Technology Authority (ICTA), setting out how the two agencies will work together in exercising their respective powers in the sector. Under the provisions of the MOU, the CCM has informed the ICTA of its intention to investigate this matter and the two bodies have agreed that it is more appropriate for the CCM to act, in this instance. The CCM will conduct its investigation independently, but will seek the advice and opinions of the ICTA throughout the case.

If it finds a breach of the monopoly provisions of the Competition Act, following an investigation, the Commission has the power to force sales of assets or businesses, or require changes in company behaviour, to remedy the situation.

The investigation is expected to take about a year.

Background for editors:

The Competition Act

The Competition Act 2007 came fully into effect on November 25th 2009, and is enforced by the Competition Commission of Mauritius, the CCM. Sub-parts II and III of Part III of the Competition Act 2007, cover restrictive practices described under 'Other restrictive agreements' and 'Monopoly situations'.

To take action, the CCM must find that the conduct of an enterprise in a monopoly situation restricts, prevents or distorts competition or otherwise exploits the monopoly situation. We refer to such conduct as 'abuse of monopoly'. Where the Executive Director has reasonable grounds to believe that abuse is occurring, or will occur, he may launch an investigation.

Monopoly abuse:

It is not in itself any breach of the law for an enterprise to be in a monopoly situation. However, as per Section 46(2) of the Competition Act, enterprises which hold monopoly positions may be in breach of the abuse or exploit any market power this position confers upon them. The question for the CCM is whether such enterprises are engaged in conduct which restricts, prevents or distorts competition (such as using their market position to exclude rival enterprises) or otherwise exploiting the monopoly situation. This is sometimes termed 'foreclosure'

Anticompetitive foreclosure may arise through 'bundling': the packaging together of two or more products. If the sale of one product is conditional on the sale of another, the products are said to be 'bundled' or 'tied' together (the former term is normally used when neither product can be bought separately).

Tying and bundling are normal business practices that are not by any means necessarily anticompetitive. Many products are sold jointly, or in varying combinations. However, in some cases bundling might be used anti-competitively. If an enterprise has market power in the sale of one product (for example a 100% market share), but sells another in more competitive markets, then it might 'leverage' market power to reduce competition in the second market. To the extent customers have to buy the monopolized (tying) product, they are forced in effect to buy the other (tied) product, reducing the sales of competitors for that second product.

The CCM takes the view that, in most markets, free competition is an effective guarantor of the interests of consumers and is likely best to promote the efficiency, adaptability and competitiveness of the economy of Mauritius. Significant weakening of competition will therefore have adverse effects.

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Further information:

For further information see the CCM's website at www.ccm.mu, and the CCM's Procedural Rules and Guidelines: 'CCM 1 - Procedural Rules', 'CCM 4 - Monopoly situations and non-collusive agreements' and 'CCM 6 - Remedies and Penalties', all available on the web site.